







“Directions and risks of legal rights enforcement by territorial communities after the opening of the agricultural land market in Ukraine”

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DIRECTIONS AND RISKS OF LEGAL RIGHTS ENFORCEMENT BY TERRITORIAL COMMUNITIES AFTER THE OPENING OF THE AGRICULTURAL LAND MARKET IN UKRAINE¹

Abstract

The need for state management of the land market is stipulated with the necessity for rational use of agricultural land and preservation of its fertility. This study aims to identify the risks that have arisen with opening the land market in Ukraine. Moreover, it develops effective measures to minimize such risks, designed to enforce the legal right of amalgamated territorial communities to acquire ownership of agricultural land. The comparative law method was used in a sample analysis of legal precedents on liability for offenses in land relations, as well as the regulations that establish liability for offenses in this field and certain provisions of the legal precedents of the European Court of Human Rights. Following the study, proposals were formulated intending to improve land management in favor of the decentralized model and enforce the legal rights of amalgamated territorial communities due to the opening of the land market in Ukraine. An innovative strategy is proposed for the functioning of land relations, aimed to improve the process of their regulation in the land market performance, and its components are outlined. Implementation of the proposed strategy for the functioning of land relations will improve the transfer mechanisms of agricultural land to the amalgamated territorial communities. It will also mitigate the identified risks in the land market performance in Ukraine.

Keywords

land plots, agricultural purpose, alienation, territorial communities, preliminary procedure, rule of law

JEL Classification

G28, H61, K14, M38, Q15

INTRODUCTION

Among the precious natural resources owned by each state, agricultural land is of crucial importance. The land fund of Ukraine is characterized by high productivity as black soils cover about 60% of its territory. Agricultural land is used in personal and business farming. The Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine on the Conditions of Circulation of Agricultural Land" entered into force on March 31, 2020, No. 552-IX (hereinafter the Law of Ukraine on Land Market). It has the effect of lifting the moratorium on the agricultural land sale. The European Commission greeted the opening of the land market in Ukraine on July 1, 2021, and aimed to continue assisting Ukraine in all dimensions and next steps of this reform (Ukrinform, 2021). The land market opening and the growing importance of the agricultural sector are expected to contribute to the

¹ The results and conclusions that concern Ukraine directly must be reinterpreted, and they should be reconsidered against the background of full-scale aggression by Russia.

innovative restructuring of the agrarian sector in the Ukrainian economy. The land market opening resulted from private land ownership, which helps raise funds for the agricultural production development on a mortgage basis (Kurylo et al., 2020).

As it turned out, only during the first six days since the land market opening, 322 land agreements were registered. As of January 21, 2022, according to the Ministry of Agrarian Policy and Food of Ukraine (2022), 82,819 land agreements were concluded, 5,431 notaries submitted applications for access to the State Land Cadastre to obtain information necessary to perform relevant notarial acts. A total of 6,093 applications were submitted by the notaries, of which 5 400 applications were approved, and 693 were rejected (Ministry of Agrarian Policy and Food of Ukraine, 2022). However, such indicators do not speak for the absence of issues arising in the process of the land market performance in Ukraine.

Legislation gaps and lack of established transparent organizational and legal mechanisms complicate the implementation of the Law of Ukraine on Land Market. One of such gaps is the lack of appropriate criminal regulation as a safeguard against corruption in land relations. Alongside this, acquiring the right of ownership of agricultural land by foreign-owned banks is unregulated, which can lead to socially dangerous consequences. Multi-stage character and some related processes of an individual nature significantly complicate the notaries' work; therefore, the mechanisms for simplified access of notaries to the State Land Cadastre should be developed. There is also a need to address other issues that slow down the processes of the full performance of the land market in Ukraine and the implementation of land reform.

1. LITERATURE REVIEW AND THEORETICAL FRAMEWORK

Transformation of land relations in Ukraine contributes to adding value and raising the cost of land. Legislative changes have led to higher demand among the land users and the gradual implementation of land reform, particularly in the context of new opportunities for the acquisition of agricultural land ownership. Land reform in Ukraine is a change in the land management system (Konotop District State Administration, 2019). The regulations that have been adopted since the beginning of the land reform and then put into practice enabled the privatization of lands and determined those land plots that remain in state ownership. Poprozman and Korobska (2020) found that the range of problems that slow down the implementation of land reform in Ukraine include uncertainty about the optimal model of agricultural land use, imperfect land law and market infrastructure, and formation of market turnover of agricultural land in Ukraine. The Law of Ukraine on the Land Market entered into force on July 1, 2021, resulting in the lifted ban on the agricultural land sale, which restored the rights of citizens of

Ukraine described by the Part 1 of Article 41 of the Constitution of Ukraine to own, use, and dispose their property. According to the World Bank (2017), it is vital to invest in land improvements and introduce efficiency-enhancing transfers and property rights that protect from land loss to promote sustainable land management.

Bezzub (2019) concluded that even during the moratorium at the legislative level, many illegal schemes in Ukraine made it possible to appropriate land. Moreover, they were common among both farmers and agricultural enterprises. The existence of the so-called "grey land market" in Ukraine was noted, as well as the abuse of power by some officials for its illegal performance. For instance, in 2020 alone, Vinnytsia Regional Prosecutor's Office filed 82 lawsuits in land relations for a total amount of almost UAH 440 million. As a result, court decisions for UAH 234 million were enforced, and 587 hectares of land were returned; the disposal of almost 240 hectares of state land worth UAH 300 million was prevented. Typical violations to which the prosecutor's office reacted included repeated gratuitous acquisition by citizens of land plots for personal farming. In particular, Zhmerynka District Court satisfied 16 lawsuits of the head of Zhmerynka Local

Prosecutor's Office to return land plots with a total of 32 hectares worth UAH 4 million (Vinnytsia Regional State Administration, 2021).

It should be remembered that EU Member States use legal tools and institutions to ensure transparency and combat corruption. However, such tools and instruments are not highly satisfactory in the EU. Anti-corruption instruments and guidelines are not consistently executed, systemic concerns are not resolved sufficiently, and such institutions do not always have adequate power to implement all these regulations. Moreover, proclaimed resolutions still do not show real tangible effects, and there is a lack of real political intentions to stop corruption (Bozkurt, 2016).

Certain issues concerning the new procedure for the agricultural land circulation, the procedures for the land sale, and the acquisition of the right to use it, the division of jurisdiction over the land disputes have been the subject of research. Kasych et al. (2020) studied the development of state land policy during independence. They emphasized that the unresolved socio-economic problems of land use are due to the lack of prudent state procedure. In this regard, even a solid agrarian potential cannot positively affect the competitiveness of the economy.

In particular, Nemchenko and Nemchenko (2018) are convinced that it is possible to tackle this issue because the country shows a massive prospect in food production. On the other hand, there is still a need to develop theoretical and practical steps to form a land market and assess available natural resources from an economic point of view. Other scientists have emphasized the significant potential of the agricultural sector of Ukraine's economy too. In Leshchenko's (2021) opinion, Ukraine has an exceptional land bank, potentially giving an agricultural superpower. Next, the Ukrainian agrarian sphere nowadays shows a huge area for modernization and expansion; thus, it has become one of the largest agricultural exporters worldwide, guaranteeing international food security.

Kobe et al. (2018) also studied the demand for land, the land price, and the causal complex of land price growth. They proposed a farm planning model and effective zoning programs for agricultural land to encourage the sustainable operation of farms. Jin and Jayne (2013) examined land

rental markets and assessed how renting lands influences households' earnings and poverty levels. Janssen et al. (2014) analyzed agricultural land market trends.

Accordingly, the issue of rational land use against the background of imperfect land law has been the subject of research for some EU scientists. In particular, Stankovics et al. (2020) analyzed the land-use policies investigating typical boundaries between land ownership and land take. Legal scope of ownership has been debated considering land-use guidelines and planning approaches. They found out that in 2014 the European Commission canceled the Soil Framework Directive because several Member States objected it. They opposed that as most lands are privately owned, they should not be under the jurisdiction of public governance. The question arises about who decides the issue of how to use the land and whether the administrative authorities give priority to non-agricultural uses. It was found that the most vulnerable point in the EU environmental protection lawmaking is private land use, aiming to attain soil protection purposes. Therefore, international land management is not widely employed; however, common European legislation could preserve land for agrarian use (Stankovics et al., 2020).

Swinnen et al. (2014) note the imperfection of European legislation on the effective regulation of land issues. In particular, land regulations may affect sustainable land management and biodiversity, having important efficiency and equity consequences. In addition, land regulations and policies can affect rental markets and land sales. Nevertheless, while some land market imperfections and restrictions are rather well documented, comparative countrywide data on existing land regulations are missing.

Hoshtynar (2020) found that land market regulations in Spain and France are characterized by higher control and broad powers of public authorities compared to other EU countries. It was found that the relevant authorities might perform the distribution function of the state in the way of accounting and regulation of land use. The study noted an unequal distribution of land ownership in Spain and France due to the concentration of a significant amount of land owned by large farms.

Zapara et al. (2021) analyzed the regulation of the agricultural land market and the background of Germany, France, Poland, Latvia, and Romania. As a result, widespread components of a practical land market regulation in European countries were found. The emphasis is on the need to introduce this mechanism in Ukraine to improve law-making on the land area and administrative and informational requirements to implement land reform. The experience of European land market development shows, first of all, the need for public management of its performance.

Only occasionally the researchers have covered the problems and inconsistencies that arose in the actual operation of the land market in Ukraine after its opening and are related to the enforcement of citizens' ownership of agricultural land. According to Zakirova (2020), the new land law of Ukraine contains safeguards for the overconcentration of land by one owner. Suppose it is revealed that any person, regardless of the receipt method (purchase, inheritance, or donation), owns land in an amount greater than the marginal area. In that case, the excessive plots purchased in violation of the limit are subject to confiscation. The study emphasizes the expediency of state aid allocated to land buyers, including farmers. A logical step to solve this problem should be the support procedure for individuals and legal entities intending to acquire land. Moreover, it is advisable to develop an appropriate regulatory framework to establish a specialized Fund for Rural Development to support agricultural producers.

The above proposals can also be taken into account to form an innovative strategy for the functioning of land relations. However, in general, such a strategy should include an integrated approach and systematization of innovative measures at the level of public administration of land market processes. Moreover, it should include optimization of certain provisions of the legislation, simplification of land registration mechanisms, and improvement of land dispute consideration, taking into account the European Court of Human Rights (ECtHR) practice. In addition, training and retraining of personnel in land relations for practical needs and building up the capacity of amalgamated territorial communities are also vital.

2. GENERALIZATION OF THE MAIN STATEMENTS

To determine the directions for the formation of an innovative strategy for the functioning of land relations, the condition and generalization of existing problems and risks should be assessed in light of the land market performance in Ukraine. These include growing criminalization of public relations in the land sphere, multi-stage character and complexity of notarial procedures for registration of property rights to land, lack of correct legal instruments and practice of land dispute resolution, and poor public understanding of the existing legal forms of transfer of land ownership.

High criminalization of public relations in the land sphere is explained by the existence of the "grey land market" and many cases of corrupt abuse that allow the interested parties to obtain land plots in an illegal way. Sample data from the National Agency on Corruption Prevention (n.d.) show that the corrupt abuses in land relations led to millions of hectares of land already lost by the state. Weaknesses in ensuring the rule of law also include the imperfect anti-raid mechanisms. In 2021 alone, state inspectors of the Main Department of the State Geocadastre in Mykolaiv Region (2021) revealed 61 cases of encroachment of land within the area of more than 200 hectares of communal agricultural lands. The estimated damage amounted to almost UAH 1.6 million. In some of these facts, the actions of the land law violators show the signs of the criminal offense provided by Article 197-1 of the Criminal Code of Ukraine "Encroachment of land and unauthorized construction" (Verkhovna Rada of Ukraine, 2001).

The most common abuses aimed at illegal obtaining of land involve government officials authorized to make certain decisions on land issues. In particular, such abuses include the conclusion of agreements on joint activities for communal and state-owned land, encroachment of state and communal lands in coordination with officials, and use of "free privatization" tools to withdraw land assets.

Conclusion of agreements on joint activities related to the use of communal and state-owned land,

particularly between state and communal enterprises and private enterprises. This agreement is provided by Article 1132-1143 of the Civil Code of Ukraine and Article 176 of the Commercial Code of Ukraine, which allows the parties to conduct business activities without the need to establish a unified enterprise. In this way, the land was obtained allegedly to pool the participants' contributions for joint activities to make a profit or achieve another goal.

Encroachment of state and communal lands in coordination with officials is one of the most common forms of "shadow" use of state-owned land. Thus, a person encroaches on a land plot and uses it without legal grounds. As a rule, such abuses result from the joint illegal activities combined with the corruption component with the involvement of stakeholders and local authorities.

Use of "free privatization" tools to withdraw land assets. Article 118 of the Land Code of Ukraine "Procedure for Free Privatization of Land by Citizens" sets forth the procedure for submission of documents by citizens interested in the privatization of land. However, this regulation underpinned, in fact, the spread of significant corruption abuses, which resulted in hundreds of thousands of hectares of land lost by the state. Despite the long process of free privatization, the introduction of a unified register of citizens, who received land under this procedure, is low.

Multi-stage character and complexity of notarial procedures for registration of ownership of land manifest in the fact that any person wishing to execute a land agreement must provide the notary

with certain documents required by the applicable law of Ukraine. However, notaries are not aware of all the current land registration processes, the origin of funds for their acquisition, and information about persons wishing to purchase land. Thus, starting July 1, 2021, the State Geocadastr (n.d.), in cooperation with the State Enterprise "Center of the State Geocadastr," for land relations monitoring, took steps to provide notaries with "simplified access" to the data reflected in the State Geocadastr. However, according to current practice, only 5% of notaries used this data for transactions, which indicates that those steps aimed at providing "simplified access" to notaries to the data of the State Geocadastr are not effective.

Lack of correct legal instruments and practices for land disputes. Land disputes are a type of legal relationship related to resolving disputes arising from the violation of property rights and land use rights by land withdrawal or acquisition. From July 2, 2021, to January 1, 2022, the courts of general administrative and commercial jurisdiction considered the relevant cases. In particular, case No. 920/418/19 suited by Verkhnia Syrovatka village council of Sumy district in Sumy region against "Retail Development" LLC on termination of the land lease agreements and obligation to return the land, due to ambiguous application of the law by courts of first and appellate instance until the final resolution of this case by the Grand Chamber of the Supreme Court. Here the priority is given to the realization of ideas and values of supremacy, guarantees of land rights, and practical realization of such rights. One of the important stages of court proceedings is, first of all, preliminary procedure, which takes place in civil, com-

Table 1. Common methods of land encroachment in Ukraine

Method of abuse	Legal regulation	Criminal liability
Conclusion of agreements on joint activities on the use of communal and state-owned land	Articles 1132-1143 of the Civil Code of Ukraine, Article 176 of the Commercial Code of Ukraine	Article 367 of the Criminal Code of Ukraine "Neglect of Duty", Article 191 – misappropriation, embezzlement of property or appropriation through abuse of office, Article 364 of the Criminal Code of Ukraine "Abuse of Power or Office", Article 366 "Forgery in Office"
Encroachment of state and communal lands in coordination with officials	None	Article 53-1 of the Code of Ukraine on Administrative Offenses "Encroachment of Land", Article 197-1 of the Criminal Code of Ukraine "Encroachment of Land and Unauthorized Construction"
Use of "free privatization" tools to withdraw land assets	Article 121 of the Land Code of Ukraine – every citizen is entitled to receive, on a free-of-charge basis, six plots, the total area of which may be 6 hectares, from the state or territorial community	Article 233 of the Criminal Code of Ukraine "Illegal Privatization of State and Communal Property"

mercial and criminal proceedings. For instance, under Article 189 of the Civil Procedural Code of Ukraine, the tasks of the preliminary procedure include:

- 1) selecting the subject matter of the conflict and the nature of the legal relations in dispute, claims, and the parties in the proceedings;
- 2) clarifying defensive pleading;
- 3) determining case circumstances to be specified and collecting applicable proofs;
- 4) recusals;
- 5) selecting the approach for consideration of the case;
- 6) taking other steps to guarantee proper, timely, and unimpeded consideration of the case on the merits (Verkhovna Rada of Ukraine, 2004).

This stage of preliminary procedure in the context of land law reforms in Ukraine is crucial for the further resolution of land disputes over the ownership, use and disposal of land.

Low public awareness of the existing legal forms of transfer of land ownership is due to the lack of effective supporting tools in land management documentation, land registration, and principles of land relations. However, the legal institution of land ownership transfer, which is available in Ukraine both for citizens and amalgamated territorial communities, contains a set of land regulations that provide rules for the settlement of land relations and procedures for transferring land titles to communal and state ownership. This indicates that the innovative strategy of land relations should include an educational component that will allow the existing legislative mechanisms to be put into practice.

3. DISCUSSION

A study of the condition of the land market in Ukraine allows summarizing some significant results. Due to certain contradictions, the exist-

ing legal institution of land ownership transfer to both citizens and amalgamated territorial communities is not perfect. This is explained by the fact that, on the one hand, it was launched a short time ago and, on the other hand, it is not yet fully adapted for practical use. Thus, the existing legal institution of transfer of land ownership to both citizens and amalgamated territorial communities should be supplemented with a set of innovative measures aimed at enhancing the regulation of land relations. The identified risks in the land market performance in Ukraine are aggravated by abuse and prevent its further development.

It was established that professional and fair justice is essential for improving the state management of land relations regulation. At first glance, it may seem that the judicial and land reforms in Ukraine do not have the same goals. However, it was established that highly professional justice is very important for the effective operation of the land market in Ukraine. The level of public confidence in the judiciary in Ukraine is not high, so the rule of law should be ensured at all litigation stages (including the emergence of new types of land disputes). The issue of the unpreparedness of the judiciary in Ukraine to resolve land disputes should be settled in the nearest time.

Article 17 of the Law of Ukraine No. 3477-IV "On the Implementation of Decisions and Application of the Case Law of the European Court of Human Rights" (Verkhovna Rada of Ukraine, 2006) provides for the application by courts of the Convention for the Protection of Human Rights and Fundamental Freedoms (European Court of Human Rights, 1950) and the case law of the European Court of Human Rights as the source of law. Furthermore, article 18 of this law contains a procedure for referring to the Convention for the Protection of Human Rights and Fundamental Freedoms and the case law of the European Court of Human Rights. This means that the European Court of Human Rights practice is important for the Ukrainian judiciary, particularly in the land market opening. For higher efficiency of land litigation, it is necessary to advance the qualification of Ukrainian judges concerning the relevant categories of cases, considering the case law of the European Court of Human Rights, and to form and apply the judicial practice in land dis-

putes after the land market opening in Ukraine. This conclusion is based on the lack of levers to regulate land relations at all stages of the litigation, and personal dishonesty of individual judges. Therefore, the European standards and the case law of the Supreme Court in land disputes are of crucial importance. Moreover, the EU is a political and economic organization based on common cultural and philosophical values (Bozkurt, 2017).

Judicial interpretation is essential for the implementation of laws, as it is the court that applies the law in practice. It also magnifies the need for courts to apply EU case law to justice at all stages of the litigation. However, in the process of the historical development of the society, judicial protection of personified rights and interests was mainly local in nature, since in court proceedings, it was always a matter of judicial protection of violated, unnoticed or disputed rights and interests of a particular individual (Dzhepa et al., 2020).

The significance of the case law of the European Court of Human Rights was confirmed by the assessment of the decision of the European Court of Human Rights in the case “Zelenchuk and Tsytsiura v. Ukraine” as of May 22, 2018. The relevant decision established that the respondent State “had gone beyond its wide discretion in the moratorium area on the alienation of agricultural land.” It failed to ensure a fair balance between the general public interest and the applicants’ property rights (European Court of Human Rights, 2018). The decision of the European Court of Human Rights does not oblige to introduce an unlimited market immediately for agricultural land in Ukraine. However, it allows creation of new guidelines for the judicial system of Ukraine. In cases arising out of the land relations, all stages of litigation, starting with the preliminary procedures, should be a kind of indicator of the land reform effectiveness and act as professional mechanisms for establishing justice beyond any corruption abuses.

As the study found, the forecasts of agricultural growth and innovative restructuring in the agrarian sector of the economy are somewhat refuted due to the high criminalization of land relations in Ukraine. It is surprising that despite the development of a legal institution for the transfer of land ownership to citizens and amalgamated territori-

al communities, the legislator did not pay enough attention to the issue of their criminal protection. Such abuses include the transfer of land without an auction, change of purpose of land plots, abuse of the right to receive land on a free-of-charge basis, and re-privatization. These administrative phases, time, and costs needed for land registration and development result in many people trying to avoid official standards; additionally, this is a general basis for corruption (Payne, 2016). The risks of socially dangerous consequences from criminal offenses in land relations are high; therefore, the creation of an independent institute of criminal protection of land relations in the Criminal Code of Ukraine has good prospects.

An innovative strategy for the functioning of land relations cannot be limited to the existence of highly protected legal institutions. Litigation in land relations is also a consequence of citizens’ ignorance of the legal regulation of land relations in terms of exercising their lawful rights. Therefore, landowners should be thoroughly informed about their lawful rights to land, as well as the opportunities for their enjoyment. It is proposed to supplement such instruments to raise public awareness of existing legal forms of transfer of land ownership with formation and operation of scientific and consulting centers for legal assistance to the territorial communities’ development in the context of land reform accomplishment in Ukraine (Figure 1).

Another direction of the innovative strategy of land relations is to strengthen the capacity of amalgamated territorial communities as entities of land ownership. Previous studies have not focused on the importance of amalgamated territorial communities as entities of land ownership, as this issue has become relevant since the opening of the land market in Ukraine through appropriate legislative mechanisms.

Nowadays, prospects of the amalgamated territorial communities to manage the agricultural and other lands within their boundaries are particularly important given the decentralization process. Livitska (2021) has the same opinion and considers the formation of territorial communities through the transfer of state-owned agricultural lands to their disposal as one of the goals of land reform.

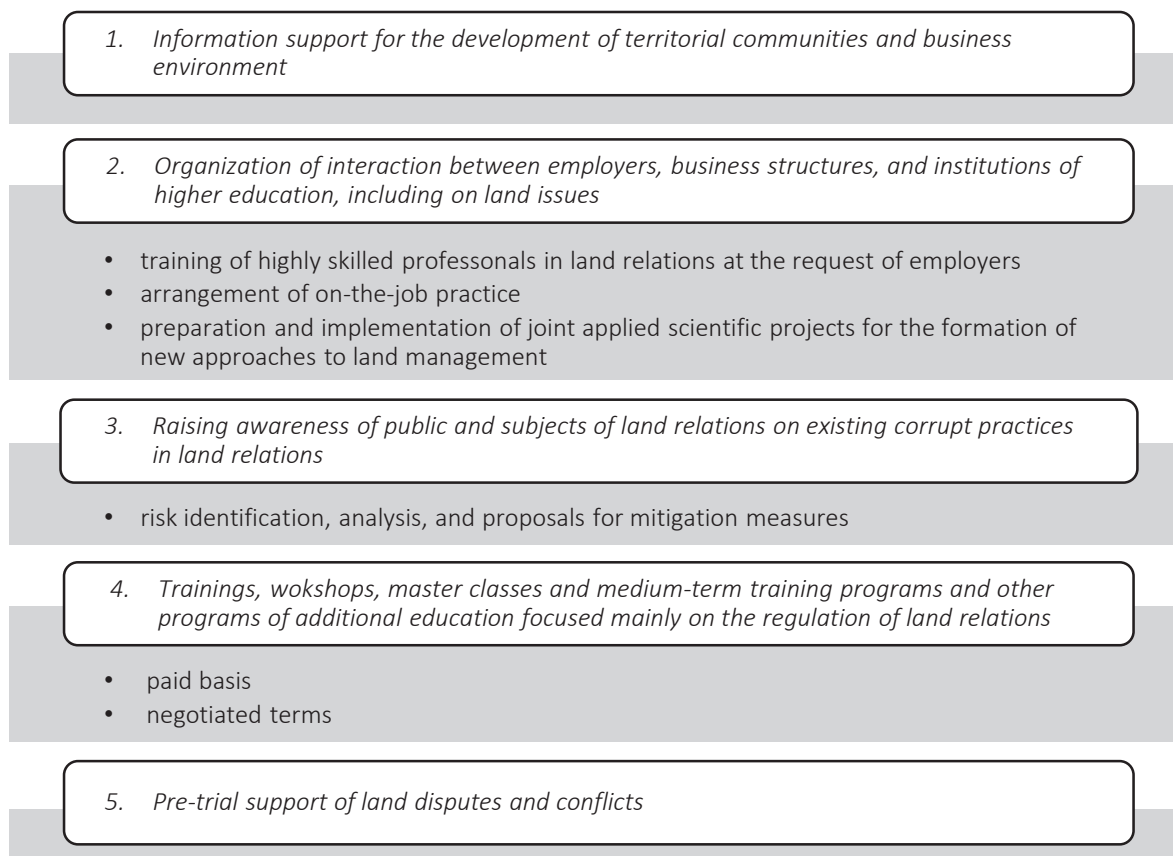


Figure 1. Possible activity directions of scientific and consulting center for legal assistance to the territorial communities' development in the context of land reform accomplishment in Ukraine

This paper concludes that this transfer will lead to more efficient land use. This process is a unique experience and cannot be compared with any other processes that took place earlier in the field of land relations in Ukraine. It will become apparent at a later stage whether territorial communities are able to ensure good land control and management. However, in the long run, local budget revenues will positively impact

the well-being of towns and villages. In general, local governments are projected to obtain about 2 million hectares of land, which requires improved land management. Today, there is a need to build up the capacity of amalgamated territorial communities for effective management of land resources, which are at their disposal, by applying an innovative strategy for the functioning of land relations.

CONCLUSION

Operation of the land market in Ukraine is imperfect and slow due to the long-term moratorium on the agricultural land sale and the relatively dynamic process of its legalization. In addition to all the risks and problems identified during the study, Russia's military aggression against Ukraine significantly complicates the further implementation of any reforms. However, even in a state of martial law, it is necessary to determine the priority economic incentives, which include the agricultural land market.

The outcomes allowed this study to formulate the concept of innovative strategy of land relations functioning, taking into account the existing hazards and prospects of land market development in Ukraine. The strategy proposed in this study covers various directions for improvement of public administration of land regulation processes, i.e., enhanced criminal protection in the field of land relations, awareness

raising ensured by the scientific and consulting centers for legal assistance to the territorial communities' development in the regions, building up the capacity of amalgamated territorial communities. Enforcement of the lawful right of amalgamated territorial communities to acquire ownership of agricultural land can be achieved through the proposed mechanisms, which will contribute to the rational use of agricultural land. Coordination of algorithms and measures of the strategy following the development of public relations in the land sphere will help overcome the risks and inconsistencies and achieve good results of the land reform. The land market in Ukraine will recover after the end of hostilities with the return to the growing trend. The implementation of an innovative strategy for the functioning of land relations will contribute to the development and rehabilitation of the land market, taking into account the proposed measures to mitigate the identified risks.

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REFERENCES

1. Bezzub, I. (2019). Rynok zemli: ukrainski realii ta yevropeyskyi dosvid [Land market: Ukrainian realities and European experience]. *Hromadska dumka pro pravotvorennia – Public opinion on lawmaking*, 7(172), 3-11. (In Ukrainian). Retrieved from <http://nbuviap.gov.ua/images/dumka/2019/7.pdf>
2. Bozkurt, K. (2016). Fighting Corruption in the EU and impact of the policy on the accession negotiations with Turkey. *Proceeding of the 5th Traditional Law Conference of the University of Ljubljana, Faculty of Law, Ozyegin University Istanbul, Faculty of Law, and University of Maribor, Faculty of Law: Corruption – A Deviation or an Inherent Part of Human Society? Some Legal Considerations*. Ljubljana, Slovenia. Retrieved from https://www.academia.edu/64037880/Fighting_Corruption_in_the_EU_and_Impact_of_the_Policy_on_the_Accession_Negotiations_With_Turkey
3. Bozkurt, K. (2017). The challenges of Turkey-EU relations. In *International Congress of European Law: a collection of scientific papers* (pp. 122-135). Odessa: Phoenix.
4. Dzhepa, Y. A., Boyko, V. B., Yasynok, M. M., Kvasha, O. I., & Klochko, A. M. (2020). Group Claim: The Reality and Possibilities of Adaptation to the Procedural Legislation on the Example of Ukraine. *International Journal of Advanced Research in Engineering and Technology*, 11(6), 400-410. Retrieved from https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3656905
5. European Court of Human Rights. (1950). *Convention for the Protection of Human Rights and Fundamental Freedoms*. Rome. Retrieved from https://www.echr.coe.int/documents/convention_eng.pdf
6. European Court of Human Rights. (2018). *Zelenchuk and Tsytsyura v. Ukraine – 846/16 and 1075/16. Judgment 22.5.2018*. Retrieved from <https://hudoc.echr.coe.int/eng/#%7B%22itemid%22%3A%5B%222002-11941%22%5D%7D>
7. Hoshtynar, S. L. (2020). Zarubizhnyi dosvid rehuliuвання rynku zemli ta mozhlyvosti yoho adaptatsii v ukraini pry rozhladi pytannia pro skasuvannya moratoriiu na prodazh zemli [Foreign experience in regulating the land market and the possibility of its adaptation in Ukraine when considering the issue of lifting the moratorium on land sales]. *Yurydychnyi naukovi elektronnyi zhurnal – Legal scientific electronic journal*, 3, 174-178. (In Ukrainian). <https://doi.org/10.32782/2524-0374/2020-3/42>

8. Janssen, L., Dillivan, K., & McMurtry, B. (2014). *South Dakota agricultural land market trends, 1991–2014. The SDSU Agricultural Experiment Station U.S. Department of Agriculture Circular 03-7000-2014*. South Dakota State University, South Dakota counties, and U.S. Department of Agriculture. Retrieved from <http://repec-sda.sdstate.edu/repec/sda/pdf/03-7000-2014.pdf>
9. Jin, S., & Jayne, T. S. (2013). Land rental markets in Kenya: Implications for efficiency, equity, household income, and poverty. *Land Economics*, 89(2), 246-271. Retrieved from <https://muse.jhu.edu/article/502174>
10. Kasych, A., Pidkuyko, O., Tershchenko, A., & Tymoshenko, V. (2020). Suchasni problemy derzhavnoho rehuliuвання rynku zemli v ukraini [Current problems of state regulation of the land market in Ukraine]. *Derzhavne upravlinnya: udoskonalennya ta rozvytok – Public administration: improvement and development*, 2, 1-8. (In Ukrainian). <https://doi.org/10.32702/2307-2156-2020.2.3>
11. Kobe, I. H., Olamide, O. E., Bamidele, F. S., Benedict, A. T., Yemisi, B. K., & Kamal, D. A. (2018). Economic Assessment of Agricultural Land Market in Rural Nigeria: Pattern and Drivers. *Journal of Land and Rural Studies*, 6(1), 50-66. <https://doi.org/10.1177/2321024917732889>
12. Konotop District State Administration. (2019). *Zemelna reforma v Ukraini: vidpovid na vsi vazhlyvi pytannia [Land reform in Ukraine: answers to all important questions]*. (In Ukrainian). Retrieved from <http://knt.sm.gov.ua/index.php/uk/prioriteti/agropromislovist/12959-zemelna-reforma-v-ukrajini-vidpovid-na-vsi-vazhlyvi-pitannya>
13. Kurylo, M., Kostenko, O., Klochko, A., & Gatseliuk, V. (2020). Advantages and risks of opening the land market in Ukraine. *Problems and Perspectives in Management*, 18(4), 423-436. [https://doi.org/10.21511/ppm.18\(4\).2020.34](https://doi.org/10.21511/ppm.18(4).2020.34)
14. Leshchenko, R. (2021, June 22). *Land reform can make Ukraine an agricultural superpower*. Atlantic Council. Retrieved from <https://www.atlanticcouncil.org/blogs/ukrainealert/land-reform-can-make-ukraine-an-agricultural-superpower/>
15. Livitska, A. (2021). Zemelna reforma v Ukraini. Kinets i znovu pochatok [Land reform in Ukraine. The end and the beginning again]. *Yurydychna Hazeta online – Legal newspaper online*, 5(735). (In Ukrainian). Retrieved from <https://yur-gazeta.com/publications/practice/zemelne-agrarne-pravo/zemelna-reforma-v-ukrajini-kinec-i-znovu-pochatok.html>
16. Main Department of the State Geocadastre in Mykolaiv Region. (2021, October 27). *61 fakt samovilnoho zainiattia zemelnykh dilianok na ploschchi bilshе 200 ha zemel silskohospodarskoho pryznachennia komunalnoi vlasnosti vyjavleno derzhavnymy inspektoramy Mykolaivshchyny protiahom mynuloho kvartalu [61 facts of unauthorized occupation of land plots on the area of more than 200 hectares of agricultural lands of municipal property are revealed by the state inspectors of Mykolaiv Region during the last quarter]*. (In Ukrainian). Retrieved from <https://mykolaivska.land.gov.ua/61-fakt-samovilnoho-zainiattia-zemelnykh-dilianok-na-ploschchi-bilshе-200-ha-zemel-silskohospodarskoho-pryznachennia-komunalnoi-vlasnosti-vyjavleno-derzhavnymy-inspektoramy-mykolaivshchyny-protiahom-m/>
17. Ministry of Agrarian Policy and Food of Ukraine. (2022, February 18). *V Ukraini zareistrovano 98 618 zemelnykh uhod [82,819 land agreements have been registered in Ukraine]*. (In Ukrainian). Retrieved from <https://minagro.gov.ua/ua/news/zemelni-uhody-operativ>
18. National Agency on Corruption Prevention. (n.d.). *Holovna storinka [Main page]*. (In Ukrainian). Retrieved from <https://nazk.gov.ua/en/>
19. Nemchenko, V., & Nemchenko, H. (2018). Problemy formuvannia rynku zemli ta otsinka pryrodnykh resursiv [Problems of the land market formation and the assessment of natural resources]. *Food Industry Economics*, 10(4), 9-14. (In Ukrainian). <http://dx.doi.org/10.15673/fie.v10i4.1128>
20. Payne, G. (2016). *Five major challenges to land management in our changing world*. Landportal. Retrieved from <https://landportal.org/node/30745>
21. Poprozman, N., & Korobska, A. (2020). Osoblyvosti mizhnarodnoho dosvidu rehuliuвання rynku zemel silskohospodarskoho pryznachennia ta yikh adaptatsiia do ukraïnskykh realii [Peculiarities of international experience of agricultural land regulation of agricultural land and their adaptation to Ukrainian realities]. *Efektivna Ekonomika – Efficient Economy*, 11. (In Ukrainian). <https://doi.org/10.32702/2307-2105-2020.11.11>
22. Stankovics, P., Montanarella, L., Kassai, P., Tóth, G., & Tóth, Z. (2020). The interrelations of land ownership, soil protection and privileges of capital in the aspect of land take. *Land Use Policy*, 99, 105071. <https://doi.org/10.1016/j.landusepol.2020.105071>
23. Swinnen, J., Van Herck, K., & Vranken, L. (2014). *Land market regulations in Europe* (LICOS Discussion Paper No. 354). Katholieke Universiteit Leuven, LICOS Centre for Institutions and Economic Performance, Leuven. Retrieved from <https://www.econstor.eu/bitstream/10419/126507/1/797825487.pdf>
24. The State Geocadastre. (n.d.). *Holovna storinka [Main page]*. (In Ukrainian). Retrieved from <https://land.gov.ua/>
25. The World Bank. (2017). *Land is Abundant and Land Markets Are Virtually Absent*. Retrieved from <https://www.worldbank.org/en/programs/africa-myths-and-facts/publication/land-is-abundant-and-land-markets-are-virtually-absent>
26. Ukrinform. (2021, May 24). *European Commission welcomes opening of land market in*

- Ukraine. Retrieved from <https://www.ukrinform.net/rubric-economy/3251662-european-commission-welcomes-opening-of-land-market-in-ukraine.html>
27. Verkhovna Rada of Ukraine. (2001). Kryminalnyi Kodeks Ukrainy [The Criminal Code of Ukraine]. *The Official Bulletin of the Verkhovna Rada (BVR)*, 25-26, Article 131. (In Ukrainian). Retrieved from <https://zakon.rada.gov.ua/laws/show/en/2341-14#Text>
 28. Verkhovna Rada of Ukraine. (2004). Civil Procedure Code of Ukraine. *The Official Bulletin of the Verkhovna Rada of Ukraine (BVR)*, 40-41, 42, Article 492. Retrieved from <https://zakon.rada.gov.ua/laws/show/en/1618-15#Text>
 29. Verkhovna Rada of Ukraine. (2006). On the Execution of Judgments and Application of the Case Law of the European Court of Human Rights. *The Official Bulletin of the Verkhovna Rada of Ukraine (BVR)*, 30, Article 260. Retrieved from <https://zakon.rada.gov.ua/laws/show/en/3477-15#Text>
 30. Vinnytsia Regional State Administration. (2021, January 21). *U 2020 rotsi u zakonnu vlasnist derzhavy povernuto 587 ha zemel ta poperedzheno vybuttia 240 ha [In 2020, 587 hectares of land were returned to legal ownership and 240 hectares were prevented from being disposed of]*. (In Ukrainian). Retrieved from <http://vin.gov.ua/news/ostanni-novyny/33122-u-2020-rotsi-u-zakonnu-vlasnist-derzhavy-povernuto-587-ha-zemel-ta-poperedzheno-vybuttia-240-ha>
 31. Zakirova, C. (2020). Zakon pro zaprovadzhennia rynku zemli v Ukraini: shcho, koly i dlia koho? [Law on the introduction of the land market in Ukraine: what, when and for whom?]. *Hromadska dumka pro pravotvorennia – Public opinion on lawmaking*, 6(191), 8-17. (In Ukrainian). Retrieved from <http://nbuviap.gov.ua/images/dumka/2020/6.pdf>
 32. Zapara, S., Pronina, O., Lohvnenko, M., Akimova, L., & Akimov, O. (2021). Legal Regulation of the Land Market: European Experience and Ukrainian Realities. *AD ALTA: Journal of Interdisciplinary Research*, 11(2), 18-24. Retrieved from http://www.magnanimitas.cz/ADALTA/110221/papers/A_03.pdf