

# Legal issues of development of organic farming in Ukraine

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## **Abstract**

*The theoretical principles of organic farming development in Ukraine are substantiated. The concept and features of the land for organic farming, especially the legal regime of such land are revealed. The analysis of legal forms of land use for organic farming was carried out. The main advantages of using an organic land plot on the basis of emphyteusis are analyzed. The subjects of land use for organic farming have been investigated. The prospective directions are determined and proposals on the improvement of the current legislation of Ukraine are developed. These include the development and approval of criteria for determining the suitability of agricultural land for use in the process of organic farming, resolving at the legislative level issues related to soil conservation and the protection of their fertility, the development and approval of norms of their qualitative condition that would meet the requirements of cultivation organic products of plant origin. In addition, there is a need for legal separation of agricultural land on which organic products are grown, taking into account the specific use of these lands and establishing their special legal regime.*

**Keywords:** organic farming; Ukraine; the Land Code of Ukraine; agricultural land.

**JEL Classification:** K11, P48, P14, D86

## **1. Introduction**

The organic food market has been one of the most dynamic food markets in the world for nearly two decades and is becoming an increasingly popular alternative to the consumption of traditional products. Organic production is carried out in 172 countries of the world, with 2.3 million producers, of which Asia is 40%, Africa 26%, Latin America 17%, Europe 15%, North America 1%, Oceania 1%<sup>4</sup>. The increase in demand is largely due to growing concern among consumers about the safety of food produced by the so-called "traditional technology". In turn, farmers have realized that consumers are willing to pay a higher price for products grown organic. According to the Food and Agriculture

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<sup>4</sup> Бородачева Н.В. (2004) Органічний продукт вирощують без хімії та сертифікату. *Дзеркало тижня*. 2004. № 31. (Bordachova N.V. The organic product is grown without chemistry and certificate. *Mirror of the week*. № 31).

Organization of the United Nations, in the long run, demand for organic products in the world will increase as the country's economy grows, education and income increase. Today, Germany is the largest organic market in Europe (8.6 billion euro), France ranks second (5.5 billion euro), the UK is third (2.6 billion euro), Italy fourth (EUR 2, 3 billion euro)<sup>5</sup>.

Ukraine has a unique opportunity to take one of the leading places among producers of organic products, due to its natural and climatic potential. Today, it is ranked 20th among the world's organic leaders and first in the Eastern European region in terms of the certified area of organic arable land, specializing mainly in the production of cereals, legumes and oilseeds. In addition, in recent years there has been a steady trend towards an increase in the number of farms engaged in the organic production and increasing the area of agricultural land that is generally involved. At the same time, the average size of such farms gradually decreases, approaching European indicators.

In accordance with the provisions of the Association Agreement dated June 27, 2014 between Ukraine, on the one hand, and the European Union, the European Atomic Energy Community and their member states, on the other hand, the process of adaptation of domestic legislation to the requirements of the European Union standards has intensified in Ukraine, in particular, to stimulate the development of sustainable agrarian production, including the development of organic agriculture and biotechnology (Chapter 17, Agriculture and Rural Development)<sup>6</sup>.

The introduction of modern methods of agricultural management serves as a form of its diversification and promotes the development of various organizational and legal forms of management. Thus, the question of the nature and features of organic agriculture as an element of organic agricultural production is actualized and requires a profound scientific reflection.

In addition, one of the strategic goals of the current state policy in accordance with the above concepts is to promote the development of organic production in Ukraine, a significant expansion of the area of agricultural land on which organic agricultural products are grown and produced. In this regard, it is extremely important to formulate a consistent, balanced, targeted and effective legislation aimed at regulating land relations in the field of organic farming. This would not only correspond to a course on further reformation of land relations, but would also be a real factor for ensuring food and environmental security.

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<sup>5</sup> Економічний дискусійний клуб (2016). *Динаміка та перспективи розвитку ринку органічної продукції в світі та в Україні*. (Economic Discussion Club. *Dynamics and prospects of development of organic products market in the world and in Ukraine*). Available at: <http://edclub.com.ua/analitika/dynamika-ta-perspektyvy-rozvytku-rynku-organichnoyi-produkciyi-v-sviti-ta-v-ukrayini>, consulted on 15.06.2019.

<sup>6</sup> Association Agreement between Ukraine and the European Union, the European Atomic Energy Community and their member states dated June 27, 2014.

## 2. Methodology

The systematic approach was taken as a basic methodology, because it fully takes into account the basic perspective directions of development of organic farming in Ukraine. In order to achieve the goal, general scientific and special methods are used, in particular: bibliographic (for the studying of scientific works devoted to organic farming); analysis and synthesis (for assessing the state, conditions and trends of the research object development, as well as for defining the legal and organizational deficiencies of the proper development of the organic trend in agriculture in Ukraine). In order to determine the conformity of the rules of law with social relations, the method of interpretation of legal norms was used. The formal-logical method helped to formulate conclusions, guided by the principles of certainty and consistency.

## 3. Perspectives of organic farming in Ukraine

Organic farming in Ukraine has favorable prospects for expansion and future development. On the one hand, the demand for ecologically pure agricultural products constantly grows on the world market, and on the other hand, the presence in the structure of the agricultural land fund of Ukraine of a significant area of land with potentially fertile black soils, which have not yet undergone destructive degradation processes, allowed, as emphasized in the literature<sup>7</sup>, to solve two key problems: 1) to offer the market an environmentally clean, organic agricultural product for consumption and 2) ensuring the preservation and restoration of the soil fertility of the country. By supporting this statement, we note that organic farming will provide the basis for ensuring food security in the state and improving the quality of the environment.

Such a conclusion is due to the fact that the dynamics of growth in the production of organic agricultural products in one way or another will contribute to satisfying the domestic needs of the country, in particular, solving the food problem. In this aspect we can speak of the social orientation and the social significance of organic production, including products of plant origin.

In addition, the purpose of organic farming is the protection of the environment in a broad sense. There is no doubt that the soil, being the main component of the biosphere, performs important ecological functions. They act as a habitat for plants and animals, microorganisms and, therefore, ensure the existence of biodiversity. The attitude to soil as an important natural resource, the development of soil protection systems of land use and agricultural systems form the basis for its protection against all types of degradation. Thus, the development

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<sup>7</sup> Кулинич П. Ф. (2017) Формування агроекологічного іміджу України як країни органічного землеробства: земельно-правові проблеми. *Правові засади ведення органічного землеробства*. Харків. Доміно. С. 130–133. (Kulynych P.F. Formation of agroecological image of Ukraine as a country of organic agriculture: land-legal problems. *Legal principles of organic farming*. Kharkiv. Domino. P. 130-133)

of organic agriculture will ensure not only the preservation of the soil, but also increase their fertility, increase the circulation of substances, preserve human health and biodiversity, minimize the impact of human economic activities on the environment.

According to the concept adopted by the International Federation of Organic Farming Movements (IFOAM), organic agriculture should be considered as a production system that maintains soil, ecosystems and people in a normal condition and is based on natural processes, biodiversity and natural cycles that are specific to a particular area without the use of resources with side effects. In addition, organic farming should reflect such a way of farming, which does not allow the use of synthetic agrochemicals and genetically modified organisms. The emphasis should be on maximizing the use of biological and agrotechnical methods of plant protection, organic fertilizers for the production of environmentally friendly agricultural products.

#### 4. Features of land plots as an object of use for organic farming

The modern development of agriculture in the countries of the European Union and the United States is characterized by a steady increase in the areas used for the organic production of agrarian products. Over the past ten years in the world, the area of certified land has increased 3 times. This is the basis for an expert assessment of the expectation of an annual increase of more than 25%, as well as the dynamic growth of the global organic market, increasing competition therein. However, there is a shortage of organic products in developed countries. This is due to the methods of state policy promoting the development of organic production. In addition, today there is a tendency to overcome the demand for supply in European markets. 43.7 million hectares of land in the world are occupied by organic production, or about 1% of the total area of farmland in the world<sup>8</sup>.

The largest areas are concentrated in Oceania - 17.3 million hectares. In the European Union, the area of land occupied by organic production is 11.1 million hectares<sup>9</sup>. The share of land occupied by organic production in the EU is 6.2% of all cultivated agricultural land. At the same time in the EU member states this indicator varies widely. The highest proportion of organic farming in Austria is 20.3%, the lowest is in Malta (0.3%).

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<sup>8</sup> Fedchyshyn D., Ignatenko I., Shulga M. Legal principles of organic production in Ukraine: realities and prospects. *Economics of Agriculture*, V. 65, N. 4, p. 1513-1528, Dec. 2018. DOI: <https://doi.org/10.5937/ekoPolj1804513F>.

<sup>9</sup> Економічний дискусійний клуб (2016). *Динаміка та перспективи розвитку ринку органічної продукції в світі та в Україні*. (Economic Discussion Club. *Dynamics and prospects of development of organic products market in the world and in Ukraine*). Available at: <http://edclub.com.ua/analytika/dynamika-ta-perspektyvy-rozvytku-rynku-organichnoyi-produkciyi-v-sviti-ta-v-ukrayini>, consulted on 15.06.2019.

In Ukraine, according to the Federation of Organic Movement of Ukraine, the share of certified organic areas among the total agricultural land of agrarian enterprises is about 1%. The size of organic farms varies from a few tens of hectares, as in most European countries, to several thousand hectares. At present, the average certified organic farm is over 2000 hectares, which places Ukraine in one of the first places in comparison with other countries of the world<sup>10</sup>

It should also be noted that Ukraine's land resources are characterized by high bio-productive potential, whose structure is dominated by fertile soils of the black soil type – 60.2% of the arable land area<sup>11</sup>, which is about 7% of world reserves<sup>12</sup>. In accordance with expert estimates, in case of a rational land use structure and appropriate scientific and resource support, the country is able to provide food products from 140 to 180 million people a year<sup>13</sup>.

In Ukraine there are about 8 million hectares of ecologically pure black soils. In this regard V.I. Kisil identifies areas suitable for growing ecologically pure products, according to which about 50% of the territory of Nikolaev and 80% of Kherson regions are suitable for organic farming<sup>14</sup>.

On the basis of the above, one can conclude that Ukraine has a great potential for the development of certified organic agricultural products and organic food products.

An important element of relations is their object. The object of the legal relations of organic production should be understood as the phenomena and objects of the world, which are directed to the subjective rights and legal obligations of the participants in such relationships. Objects of legal relations concerning organic production are land plots, things, property, behavior, etc. In the sphere of organic farming among the objects dominant role belongs to land plots.

Today the current legislation of Ukraine includes a number of laws and regulations, norms of which not only directly regulate social relations in the field of organic production, but also devoted to the regulation of land relations, which are

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<sup>10</sup> Федерація органічного руху України (2017) *Органік в Україні*. (Federation of Organic Movement of Ukraine. *Organic in Ukraine*). Available at: <http://organic.com.ua/uk/homepage/2010-01-26-13-42-29>, consulted on 15.06.2019.

<sup>11</sup> Артиш В.І. (2010) Удосконалення системи державного регулювання виробництва органічної продукції в Україні. *Науковий Вісник Національного університету біоресурсів і природокористування України*. Вип.145. С. 365-370. (Artysh V.I. Improvement of the system of state regulation of organic production in Ukraine. *Scientific Bulletin of the National University of Bioresources and Natural Resources of Ukraine*. Vol. 145. P. 365-370).

<sup>12</sup> Воскобійник Ю.П. (2013) Ємність ринку органічної продукції в Україні. *Агроінком*. № 4-6. С. 7-10. (Voskobiynyk Y.P. Capacity of organic products market in Ukraine. *Agroincom*. № 4-6. P. 7-10).

<sup>13</sup> Дудар О.Т. (2009) Органічне агровиробництво у системі екологоспрямованого розвитку сільського господарства. *Інноваційна економіка*. Вип. 4 (14). С. 26-30. (Dudar O.T. Organic agricultural production in the system of ecologically oriented agriculture development. *Innovative economy*. Vol 4 (14). P. 26-30).

<sup>14</sup> Кисиль В.І. (2000) *Біологічне землеробство в Україні: проблеми і перспективи*. Харків : Штрих, 161 с. (Kisil V.I. *Biological agriculture in Ukraine: problems and perspectives*. Kharkiv. *Shtrih*. 161 p.).

formed when using land for organic farming. However, the specialized land law, in particular, the Land Code of Ukraine, unfortunately does not even mention lands used for organic farming. This normative act does not even determine the features of the legal regime of their use, protection and reproduction of quality. In this regard issue concerning the concept of these lands is becoming urgent.

So, having analyzed the legislation, we can cite the following signs of land for organic farming:

1) for the use of these lands for the purpose of production of organic products of plant origin special importance is their suitability for the realization of the specified purpose. The assessment of the suitability of land (soils) for the production of organic products (raw materials) is carried out by the central executive authority, which implements the state policy for the implementation of state supervision (control) in the field of environmental protection, rational use, reproduction and protection of natural resources, in the field of land relations. This authority should issue a certificate of compliance of the data of the land to the requirements that are established for them by special legislation;

2) the right to use land for conducting organic farming may be carried out only by specialized subjects. According to the law, they are referred to as “operators”, that is, business entities that have the status of producers of organic products (raw materials) and are included in the Register of producers of organic products. Individuals and legal entities that are not listed in the Register of producers of organic products (raw materials) are not entitled to produce organic products (raw materials);

3) the direct use of lands for organic farming legislation imposes additional obligations on subjects that will produce organic products (raw material) of plant origin. This is stipulated by the “Detailed rules for the production of organic products (raw materials) of plant origin”, approved by the Resolution of the Cabinet of Ministers of Ukraine dated August 31, 2016;

4) the use of lands for organic farming must be ecologically balanced, since these lands (soils) fulfill important environmental functions.

In turn, the features of the legal regime of land for organic farming should be as follows:

1. They must be recognized as the object of special legal protection. This will ensure the maintenance of the suitability of environmentally clean lands for future use in order to produce organic production (raw materials) of plant origin.

2. The quality of these lands should be under constant control. Permanent monitoring should be mandatory.

3. The use of these lands for the organic production should be economically supported and stimulated by the state.

4. Land for organic farming should occupy a separate (special) place in the value of land, since their use is provided by public interests.

5. For violations involving the use, protection and reproduction of these lands, increased legal liability should be provided.

All of the above shows the necessity of fixing at the legislative level the definition of lands intended for organic farming. The most appropriate would be to provide such article in Chapter 5 of the Land Code of Ukraine, which defines the legal regime of agricultural lands. Such lands should be considered as certified land plots in the agricultural lands and granted for use or transferred to the ownership for the cultivation of organic products (raw materials) of plant origin with the help of such organic substances that are characterized by consumer quality and safety for human life and health and the environment.

### **5. Legal forms of use of land plots for organic farming**

As we know, the effectiveness of organic agricultural production, significantly increases, firstly, on large areas of land, and secondly, on the title of ownership. Regarding the first moment following should be noted. Modern industrial technologies for growing crops, for example, a vegetable group, require at least 1-1,500 hectares. And for grain it is unprofitable to have less than 20000 hectares. At the same time, as a result of the land reform and privatization of agricultural land by citizens of Ukraine, they have received relatively small land plots into private ownership. Their area is usually from 2 to 9 hectares. It is clear that the effectiveness of agricultural production on such land plots is small. In this regard, the land-legal doctrine substantiates the need for consolidation of agricultural lands, that is, the concentration of land in one entity on the right of ownership. As emphasized in the legal literature, land plots do not necessarily have to be adjacent, it is only important that there is the possibility of using them for the maintenance of one farm<sup>15</sup>.

As for the second factor, it is important to pay attention to follows. An individual who, as a result of land acquisition of agricultural land, became a private owner, as well as a person who received a land plot for farming in the case of self-management on a private land plot, is directly interested in ensuring that the quality of such land plot does not deteriorate. The care of the person to maintain the proper condition of the land for organic farming is due to the fact that the future use of the land plot in economic activities will be a source of profit and the possibility of existence of the owner - producer and his family members.

Thus, the legal form of the use of land for organic farming should be considered as the legal model of operation of the relevant plot, which is based on a certain substantive or binding law, that is, the legal title for this land plot and specifies the features of its special legal regime. In this case, actually refers to the legal model of acquisition, implementation and termination of a subjective right to land.

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<sup>15</sup> Куцевич О. П. (2014) Правові питання консолідації земель в Україні: дис. ... канд. юрид. наук; Київський нац. ун-т ім. Тараса Шевченка, Київ, 188 с. (Kucevych O.P. Legal issues of consolidation of land in Ukraine (PhD thesis). Kyiv national university named after Taras Shevchenko. Kyiv. 188 p.).

According to Article 80 of the Land Code of Ukraine citizens and legal entities are subjects of the right of private ownership. Citizens of Ukraine may be owners of agricultural land, which are used for gardening, conducting private peasant farming, farming and commercial agricultural production. As for legal entities, land plots for the cultivation of organic products of plant origin may be owned by non-state and non-communal agricultural enterprises and used by others on the title of ownership.

The use of land for organic farming can be carried out on the title of the right to use land. This is primarily about the cultivation of organic products of plant origin according to lease agreements and on the basis of agreements of emphyteusis. These are independent and most widespread legal forms of land use for these purposes.

In particular, the right to lease organic land as an integral part of agricultural land should be considered as based on the agreement of a fixed in terms use of a plot of certified organic land required by the tenant registered in the register of producers of organic products for organic farming as an entrepreneurial activity provided that the restoration, conservation and systematic increase qualitative state of organic land.

In its turn, an agreement on the establishment of emphyteusis on organic land is an agreement between the owner of a certified organic land plot and the land user (operator) - the producer of organic products of plant origin, registered in the Register of producers of organic products (raw materials), who has a corresponding certificate, concerning the payment or free right to use land for agricultural needs by transferring this right from the owner of the land plot to the operator with save of owner's the right to dispose of this plot of land. Such agreement shall be considered as concluded from the moment of reaching agreement on all essential terms of the contract.

We will analyze the main advantages of using an organic land on the basis of emphyteusis as an alternative to the lease of agricultural land plot for organic farming.

As it is known, the term of use of a plot land is always one of the most important issues of lease of agricultural land. When concluding a land lease agreement, the parties are limited to the minimum and maximum term specified in the Law of Ukraine "On Land Lease" (Article 19), which today is at least 7 years for agricultural land. At the same time, according to the given norm, the term of the lease agreement is determined by the agreement of the parties, but cannot exceed 50 years.

In the case of the conclusion of the agreement on emphyteusis, this situation is somewhat modified. For the land of agricultural purpose of all forms of ownership, the minimum period of emphyteusis is not established by law.

As we know, the current version of the Law of Ukraine "On Land Lease" contains 3 mandatory essential terms of the lease agreement. The absence of any of the essential conditions serves as the basis for appealing the lease agreement and declaring it invalid. In addition, the land lease agreement must be concluded in



accordance with the Model Form, which is approved by the decision of the Cabinet of Ministers of Ukraine. The situation with rigid regulation complicated the negotiations on the conclusion of a lease of organic land and increased the risk that the lease agreement concluded by the parties without proper legal assistance would not meet all the requirements of the legislation.

The current legislation does not stipulate such requirements to the agreement of emphyteusis. The parties are obliged to agree in the agreement of emphyteusis only those conditions which they consider essential. This gives the parties much more freedom and allows them to adjust only those conditions that are important to them, which is especially relevant when using land for organic farming.

The rent is another important aspect of agricultural land lease, because its size directly affects, for example, the financial condition of the agricultural enterprise - the tenant. With the introduction of amendments to the current legislation, the rent fee for the use of agricultural land of state or communal property may not exceed 12% of the normative monetary valuation. As to the size of the rent for the use of agricultural lands that are privately owned, according to the Decree of the President of Ukraine "On additional measures for the social protection of peasants - owners of land plots and land shares (shares)" dated February 2, 2002 it is recommended that such a rent should be set at a rate not less than 3% of the normative monetary value of the land plot.

The form of payment for private property lands, which are used under a lease agreement is cash or natural, and cash for lands of the state or communal property. Unlike the above the form of payment under the agreement of emphyteusis is determined by the agreement of the parties (Article 409 of the Civil Code of Ukraine). The size of the payment does not depend on the normative monetary valuation of land. In the current legislation of Ukraine there is no definition of its maximum and minimum size.

Some peculiarities are inherent in using on the basis of emphyteusis of agricultural lands for organic farming, which are called submoratory. They are privately owned by Ukrainian citizens, and a moratorium on alienation has been imposed on these lands. Until recently, the practice of concluding agreements of the emphyteusis on these lands for a period of 100 years with the simultaneous compilation of the testament has become widespread. In this case, the conclusion of the agreement on emphyteusis should be considered as one of the mechanisms bypassing the moratorium on the alienation of agricultural land. This practice was terminated in 2018 due to the introduction of appropriate amendments to the Land Code of Ukraine concerning the limitation of the period of emphyteusis against submoratory lands to 50 years (part 4 of Article 102<sup>1</sup> of the Land Code of Ukraine).

According to the Law of Ukraine "On Land Lease", a leased agricultural land or part thereof may, with the consent of the landowner, be transferred by the tenant to the use of another person (sublease).

The positive significance of emphyteusis, in contrast to the lease, is that under the agreement of emphyteusis, the land user has the right to dispose of the right to use the land plot and to make it into the statutory fund of a third party.

Unlike the lease agreement, in accordance with the agreement of emphyteusis, the right to use the land plot can be transferred to another person without the prior consent of the landowner. Consequently, after the conclusion of the agreement on emphyteusis for a significant period, the landowner actually loses the opportunity to influence the fate of the land plot used for organic farming. The presence of such an opportunity makes the use of emphyteusis extremely cost-effective for the land user, which contributes to the intensive development of the practice of concluding agreements of emphyteusis in modern conditions.

The possibility of alienating the right of emphyteusis must also mean the possibility of this right to be pledged. However, unfortunately, in practice such a pledge is impossible, because: 1) the right of emphyteusis is almost impossible to assess; 2) the registration of the transfer of the right to the emphyteusis on the basis of pledge agreement is not provided for by law.

Today 40 thousand hectares of agricultural land are used on the basis of the agreements of emphyteusis<sup>16</sup>. Consequently, the agreement of emphyteusis is an interesting alternative to the lease of agricultural land, including for organic farming, and has a number of significant advantages due to the lack of full and comprehensive regulation of this instrument in domestic legislation.

## 6. Subjects of use of land for organic farming

In the process of realization of various legal forms of land use for organic farming, the subjective composition of the relevant legal relations should be taken into account. The subjects or participants of the legal relations on organic production are individuals and legal persons who have passed the assessment of conformity of production of organic products (raw materials), have received a certificate of conformity and are included in the register of producers of organic products (raw materials). At the same time, the current legislation of Ukraine does not impose any additional requirements on legal entities and individuals who are planning or already engaged in the production of organic products (raw materials). It should be taken into account the fact that legal relations regarding organic production by their nature are agricultural legal relations. That is why their participants can be agricultural enterprises of all types and their associations, as well as business associations, agricultural cooperatives, state-owned enterprises, peasant (farmer's) farms and their associations, private (private-leasing) enterprises, other entities households based on private property, as well as sole proprietors and individuals.

In general, the subjective composition of agricultural producers, formed in the process of land reform, is heterogeneous. P.F. Kulynych correctly notes that in Ukraine three main types of subjects of agricultural land have been formed: 1) citizens, who lead peasant household; 2) farms; 3) agricultural enterprises formed

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<sup>16</sup> Еліна Редіх (2018) Темні води емфітевзису. *Землепорядний вісник*. № 6. С. 41-45. (Elina Redih. Dark waters of emphyteusis. *Land Management Bulletin*. № 6. P. 41-45).

as a result of the reform of the former collective farms<sup>17</sup>. Thus, a citizen of Ukraine, who acquired the right to a land plot with a special purpose "for the conduct of commodity agricultural production", is obliged to create, for example, a farm and use a plot of land for the needs of farming. At the same time, the possibility of the creation of a private agricultural enterprise or economic partnership by a citizen of Ukraine is not excluded, so the land plot can be transferred to the statutory fund of such legal entity.

Recently, the structure of agricultural producers has undergone changes due to the concentration of agricultural production in order to increase its efficiency. This is, in particular, about agricultural legal entities – agro-holdings, which today control the use of large areas of agricultural land. The peculiarity of an agricultural holding is that it consists of several legal entities simultaneously associated with economic interests and which have certain legal connections. At the same time, while maintaining economic autonomy in the composition of agricultural producers, they are in a certain subordinate economic dependence on those legal decisions taken by the head company<sup>18</sup>.

Analyzing the status of agricultural holdings as socio-economic associations of agricultural producers, P.F. Kulynych emphasizes that in agricultural holdings, the organization of agricultural land use is characterized by a separation of decision-makers regarding land use and subjects of responsibility for compliance with legislation on the protection and use agricultural land. The decision on agricultural use is taken by the head legal entity in the holding or with its leading participation, and according to the law, the legal entity, to which the land plot belongs on the right of ownership or the right of use, acts as the subject of responsibility<sup>19</sup>. In such circumstances, the question of the possibility of proper use of agricultural lands for organic farming and the status of organic producers should be decided in the general order.

Agricultural producers as carriers of rights on agricultural land are usually distinguished are those which provide 1) specialized and 2) non-specialized agricultural activities.

The composition of specialized agricultural producers includes farms and agricultural cooperatives. The agricultural specialization of these producers is enshrined at the legislative level (Laws of Ukraine "On farms", "On Agricultural Cooperatives"). The main activity of these legal entities is in the field of production of agricultural products (including organic), processing and realization of such

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<sup>17</sup> Кулинич П.Ф. (2011) Правові проблеми охорони і використання земель сільськогосподарського призначення в Україні. Київ: Логос, 688 с. (Kulynych P.F. *Legal problems of protection and use of agricultural land in Ukraine*. Kyiv. Logos. 688 p.).

<sup>18</sup> Акманов С.С. (2010) Агрохолдинги в системе аграрных правоотношений российских сельскохозяйственных товаропроизводителей. *Аграрное и земельное право*. № 5 (65). С. 8-20. (Akmanov S.S. Agricultural holdings in the system of agrarian legal relations of Russian agricultural producers. *Agrarian and land law*. № 5 (65). С. 8-20).

<sup>19</sup> Кулинич П.Ф. (2011) Правові проблеми охорони і використання земель сільськогосподарського призначення в Україні. Київ: Логос, 688 с. (Kulynych P.F. *Legal problems of protection and use of agricultural land in Ukraine*. Kyiv. Logos. 688 p.).

products. It should be noted that both farms and agricultural cooperatives carry out entrepreneurial activity, using the land assigned to them for agricultural commodity production.

It seems that it is the specialized agricultural enterprises as potential actors engaged in agriculture, should be oriented towards the status of producers of organic products of plant origin. They should be given priority when acquiring or using certified lands for organic farming.

Non-specialized producers of agricultural products include other legal entities that own or use agricultural land with a purpose for commercial agricultural production and use these land plots in accordance with their intended purpose. The peculiarity of the legal status of these entities is that they are created in accordance with the legislation that regulates the general procedure for the creation of legal entities. They can carry out economic activities in all spheres of the economy. According to P.F. Kulynych, they should include partnerships and institutions (Article 83 of the Civil Code of Ukraine) and enterprises (Article 62 of the Commercial Code of Ukraine), as well as non-agricultural cooperatives<sup>20</sup>.

Agricultural enterprises of non-land producing, for example, livestock enterprises that operate using forages, purchased from other agricultural enterprises, can carry out economic activities, even in the absence of agricultural land.

Particular attention is required to the issue of the production of organic products of plant origin by legal entities - agricultural enterprises. Part 3 of Article 22 of the Land Code of Ukraine stipulates that agricultural land is transferred to the property and provided for use of agricultural enterprises - for the conduct of commodity agricultural production. It should be noted that according to Part 5 of Article 22 agricultural land cannot be transferred to foreigners, stateless persons, foreign legal entities and foreign states. Consequently, foreign legal entities cannot claim ownership of the relevant agricultural land for organic farming. These entities may be provided with the relevant land only for use, for example, on lease terms. So, they can also get the status of producers of organic products, using land plots on a lease.

Because we are talking about agricultural lands, they can be transferred to the ownership or be provided for use by citizens and legal entities in accordance with the law. As it follows from Part 3 of Article 22 of the Land Code of Ukraine, the named lands are used for the conduct of personal peasant farming, gardening, hay and grazing, commercial agricultural production, and farming. System analysis of the given prescription shows that citizens can not directly get a land plot for organic farming, that is, for the production of organic products of plant origin. However, the law does not exclude the possibility of conducting organic farming, for example, on land plots of a private peasant farm, commercial agricultural production or a farm if the citizen will be registered as an individual entrepreneur.

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<sup>20</sup> *Ibid.*

It is important only that the named land plots meet the requirements of the legislation in the field of organic production.

In general, summing up the above and taking into account the peculiarities of production of organic products (raw materials), the following definition can be given: subjects of the legal relationship with the production of organic products (raw materials) - are producers of organic products (raw materials), which have separate property, endowed with a special legal capacity and capacity (legal personality), carry out economic activity using the land as the main means of production to provide the population of Ukraine and other states the necessary food products, raw materials and food of plant and animal origin, aquaculture and products of beekeeping.

## 7. Conclusion

Awareness of mankind of the growing environmental threat due to the intensification of agriculture has stimulated the development of a variety of alternative agricultural methods that take into account environmental conservation, the level of biodiversity, the conservation of natural resources, the application of high standards of proper maintenance of animals and production methods that meet certain requirements for products manufactured using substances and processes of natural origin. Such alternative methods of agricultural production include "organic production".

Since organic farming is inextricably linked with the use of land, today land legal aspects of organic farming require the special attention of state institutions. These include, in particular, the development and approval of criteria for determining the suitability of agricultural land for use in the process of organic farming, resolving at the legislative level issues related to soil conservation and the protection of their fertility, the development and approval of norms of their qualitative state that would meet the requirements of cultivation organic products of plant origin, etc.

In addition, there is a need for legal separation of agricultural land on which organic products of plant origin are grown, taking into account the specific use of these lands and establishing their special legal regime. The relevant provisions need to be consolidated at the legislative level.

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