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Improvement of Land Relations in the Context of Sustainable Development of Rural Areas in Ukraine

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Abstract

Ensuring the sustainable development of agricultural production, in particular by legal means, becomes especially important for both Ukraine and other countries. The article considers the legal framework aimed at ensuring the effective conduct of modern agricultural production. Proposals for improving land and agrarian legislation in this area have been developed. In particular, it is proposed to develop a standard model of sustainable development of rural areas and the adoption of the Law of Ukraine "On sustainable development of rural areas". It should contain criteria for distinguishing the production, social and environmental components of sustainable development of rural areas, in particular, enshrine their definitions, contain special rules and regulations in separate sections. From the analysis of the provisions of national and European legal documents and the situation that exists within rural areas, the conclusion is made that it is expedient to introduce into the practice of agrarian legislation compliance with the principles accompanying the process of sustainable development of rural areas, namely: clear demarcation basic concepts and principles of conducting activities in rural areas, market orientation, balance, adaptability of rural development, taking into account regional features of rural development, local partnership, isolation, quality priority.

Keywords: sustainable development; rural areas; land relations; agricultural production; agrosphere.

JEL Classification: K32; Q56; R11; R52; R58.

Introduction

The relevance of the research topic is due to the fact that the current stage of development of Ukraine as a state governed by the rule of law, in particular its rural areas, is determined by the diversity and complexity of problems that accumulate over time and hinder their sustainable development. Ukraine's chosen European path of development requires the integration and implementation of the national legal system into the systems of the European Union countries, so the transition to sustainable rural development should gradually become an imperative of public policy, which is primarily to build effective legal support.

The issue of ensuring sustainable development of rural areas is solved on the basis of national legislation. In 2015, two legal acts were adopted, which lay down the principles of sustainable development of rural areas: the Strategy of Sustainable Development "Ukraine 2020" and the Concept of Rural Development. However, irrationality, inconsistency, untimeliness, and often only declarativeness of the adopted normative legal acts hinder the progress of rural territories on the path of sustainable development.

The only way to implement the strategy of sustainable development of rural areas of Ukraine is the formation of an economic mechanism that includes methods, techniques, levers and tools that will ensure a certain balance between social, economic and environmental components of rural life as a multifunctional system to adapt to existing conditions, ensuring a synergetic effect and achievement of strategic landmarks, defined goals and objectives.

1. Literature Review

Many works of domestic and foreign scientists are devoted to the study of issues related to the legal problems of rural development, among them: H. Azadi, A. Bhaduri, O. Borodina, J. Courvisanos, O. Gafurova, P. Kulynych, T. Kurman, V. Nosik, M. Orlatyi, O. Pavlov, I. Prokopa, C. Richardson, P. Sabluk, A. Stativka, V. Urkevych, M. Shulga, V. Yermolenko, V. Yurchyshyn and others. However, some issues regarding the role, place and main components of socio-economic development of rural areas on the basis of sustainability remain insufficiently covered and still require comprehensive research. Theoretical and methodological aspects of forming a legal strategy for sustainable development of rural areas also need special attention. In addition, the study of aspects of the formation of a strategy for sustainable development of united territorial communities needs attention. The latter are formed in the process of administrative-territorial reform, which is currently underway in Ukraine. The complexity and versatility of issues related to their implementation in practice necessitate further research, as well as improving legislation in this area.

2. Methodology

The general scientific dialectical method became the basis of all work, which made it possible to consider the sustainable development of agricultural production in relation to other legal phenomena, and the corresponding legal array in the dynamics of its development. The formal-logical method allowed to formulate a number of legal constructions, in particular, such as: "state agrarian policy", "sustainable development of agricultural production". Using the historical and legal method, the formation and chronological development of the concept of sustainable development is studied. The comparative legal method was used to compare certain provisions of the agricultural legislation of Ukraine with the legislation of foreign countries, as well as with the norms of international agreements in the field of legal regulation of relations to ensure the sustainable development of agricultural production. Synergetic one is chosen to study the production, environmental and social components of sustainable development in the system and interaction. The formal-legal method is used to establish the content of certain provisions of agricultural legislation in the field of sustainable development of agricultural production. The modeling method was used in the construction and modification of legal norms proposed for amendments to the current agricultural legislation, as well as in the development of the draft law "On sustainable development of rural areas".

3. Conceptual Approaches to the Formation of the Mechanism for Implementing the Strategy of Sustainable Development of Rural Areas

According to the Concept of the State Program of Sustainable Rural Development of Ukraine for the period up to 2025, sustainable rural development is development that ensures growth, diversification and efficiency of the rural economy, increasing the number of rural residents and increasing their life expectancy, full and productive employment, improving the level and quality of life in rural areas, rational use and reproduction of natural resource potential of rural areas (Oliynyk & Stepanenko 2003, 69). It should be emphasized that among the key factors of sustainable development of rural areas, one of the leading places is the harmonization of social, economic and environmental components in accordance with the institutional environment.

Rural areas of Ukraine have a strong natural and climatic, human, industrial, innovation and investment, intellectual, marketing and other potential, able to ensure competitive production, stable economic growth and, consequently, a high level and quality of life of the rural population. Therefore, a strategic plan for sustainable development of rural areas is developed for the correct choice of ways to achieve goals, provided the rational use of production, resource and human potential of the village. And the process of forming a rural development

strategy should take place as an interaction of strategic thinking, a formal planning system and current situational decisions regarding the future development of rural areas.

In accordance with the global strategy of sustainable development, Ukraine has formed its own concept of sustainable development, which substantiates the need to change development priorities and strategic guidelines for further development of the state have been identified. Moreover, the main goal was formulated, which is seen to be achieved as a result of the above changes. The sequence of actions in realization of the outlined directions of development was specified. The Order of the Cabinet of Ministers of Ukraine of September 23, 2015 № 995-r approved the Concept of Rural Development, which outlines the main priorities of rural development and the mechanism of preparation of the agricultural and rural sector to operate in a free trade zone with the European Union and developed Conceptual Framework of socio-ecological development of rural areas. The implementation of the Concept will allow shifting the focus of the state agricultural policy from supporting the agricultural sector of the economy to supporting rural development - improving the quality of life and economic well-being of the rural population.

In recent years, there has been a contradiction between conceptual and institutional factors in Ukraine:

- the slowdown in the implementation of the latest scientific ideas in the practice of agrosphere revival;
- the vectors of agrarian policy have changed three times in recent decades;
- the land reform, which is currently in its final stage, has identified many additional regulatory and legal risks;
- fiscal support for the development of the agricultural sphere requires improvement of the mechanism of its implementation, etc. (Kravchuk 2013, 154-155).

Ensuring the sustainable development of agricultural production, in particular by legal means, becomes especially important for both Ukraine and other countries. After all, in the context of globalization, national economies become interdependent and interacting components of the world economic system with common patterns of development.

This is due to the projected problems of a global nature - food, environmental, energy and is due to the need: (a) to ensure food security, (b) to increase the competitiveness of the national agricultural sector of the economy, (c) to provide social development of rural areas, (d) to preserve the natural environment in the process of agricultural production, minimizing its negative, anthropogenic impact on environment.

All this requires the adoption of appropriate measures by the state, one of which in modern socio-economic conditions is the legal provision of sustainable development of agricultural production. After all, as V. Kostytskyy emphasizes, the law itself concentrates the legitimized ecological interests of society regarding the ecologically balanced use and preservation of natural resources and environment in the process of agricultural production for present and future generations (Kostytskyy 2015, 43). This issue is especially relevant in connection with the possibilities of Ukraine's European integration.

4. Legal Regulation of Sustainable Development of Rural Areas

The functioning of agricultural production in Ukraine is ensured by several legal acts of different legal force, orientation, subject matter, etc. In general, they all form a single complex - the legal framework aimed at ensuring the effective conduct of modern agricultural production. At the same time, the effectiveness of the latter and ensuring its sustainable development largely depends on the perfection of existing legislation.

As it was rightly noted by V. Semchyk, the level of legal regulation of relations in the agro-industrial complex largely depends on the efficiency of agricultural production, which, in turn, significantly affects the food security of the population of Ukraine. It also takes into account social and political stability in the country (Semchyk 1998, 223). From the point of view of A. Stativka and V. Urkevych, modern problems of functioning of agriculture are caused by many factors, among which the imperfect legal regulation of agrarian relations occupies a determining place (Stativka & Urkevych 2011, 104). It is worth agreeing with these points of view, because even today in Ukraine there is no special normative act that would comprehensively regulate the whole set of agrarian relations that arise in the process of agricultural production. In this regard, the study and development of proposals to improve agrarian legislation in this area becomes particularly relevant.

The Law of Ukraine "On Ratification of the Protocol on Ukraine's Accession to the World Trade Organization", which was adopted on April 10, 2008⁶ should be considered as an important act of legal regulation of the research area. According to its provisions, Ukraine becomes a full member of the WTO and undertakes certain obligations in four areas: 1) state support for agriculture; 2) access to the market of agricultural and food products; 3) sanitary and phytosanitary measures; 4) export competition in agricultural and food trade.

In terms of its scope and thematic coverage, the largest international legal document in the history of Ukraine and the largest international agreement with a third country ever concluded by the European Union is the Association Agreement between Ukraine, on the one hand, and the European Union. It defines a qualitatively new format of relations between Ukraine and the European Union on the principles of "political association and economic integration" and serves as a strategic guideline for systemic socio-economic reforms in Ukraine. Chapter 17 of the Agreement ratified by Ukraine is devoted to agriculture and rural development.

According to the Ukrainian legislation state agricultural policy is aimed at ensuring sustainable development of the agricultural sector of the national economy, as well as ensuring system and comprehensiveness in implementing state agricultural policy by all public authorities and local governments. It should be based on national priorities and take into account the need for Ukraine's integration into the European Union and the world economic space. The Law of Ukraine "On the basic principles of state agricultural policy for the period up to 2015" has proclaimed strategic goals of state agricultural policy, including: 1) guaranteeing food security of the state; 2) transformation of the agricultural sector into a highly efficient and competitive sector of the state economy in the domestic and foreign markets; 3) preservation of the peasantry as the bearer of the Ukrainian identity, culture and spirituality of the nation; 4) integrated development of rural areas and solving social problems in rural areas. Unfortunately, since the adoption of this Law and to date, these strategic goals have not been achieved. And the precondition for their achievement should be the sustainable development of agricultural production.

Decrees of the President of Ukraine "On basic principles of rural social development", "On priority measures to support rural social sphere development", "On additional measures to solve social problems in rural areas and further development of the agrarian sector" are especially important for studying the relations of sustainable development of rural areas. This should include the Decree of the President of Ukraine "On the concept of state regional policy" which defines the criteria for depression in the regions and mechanisms to stimulate their development and which directly indicates the consolidation of rural communities.

At the same time, it is necessary to note such orders of the Cabinet of Ministers as "On approval of the Concept of the comprehensive program for support of Ukrainian rural development for 2006-2010" dated December 21, 2005 № 536, "On approval of the plan of priority measures to fulfill Ukraine's obligations WTO membership" dated December 17, 2008 № 1570, "On approval of the Strategy for the development of the agricultural sector of the economy until 2020", "On approval of the action plan for adaptation of the Ukrainian economy to WTO requirements" dated October 30, 2008 № 1381. For example, the latter stipulates that in the field of agriculture it is necessary to take measures to: 1) improve the quality and safety of domestic agricultural products; 2) promote domestic agricultural products on the foreign market; 3) improve existing and to introduce new programs of state support of agriculture in accordance with WTO norms; 4) create an effective system of protection and rational use of agricultural lands; 5) ensure the implementation of national programs in the field of agriculture of Ukraine, etc.

The legal framework in the field of sustainable development of rural areas is also filled by departmental regulations of the relevant line ministries, committees and agencies. Among the orders concerning the regulation of relations of sustainable development of rural areas, a special place is occupied by the Concept of balanced (sustainable) development of agroecosystems in Ukraine for the period up to 2025. This Concept aims to ensure the implementation of the ideas and principles declared by the United Nations Conference on Environment and Development (Rio de Janeiro, 1992) and the World Summit on Sustainable Development (Johannesburg, 2002), to which Ukraine has joined. It provides for a number of measures to form a balanced (sustainable) system of nature management in agriculture and ensure the development of the ecological network, in particular: to carry out a scientifically sound transformation of agricultural land in order to form a balanced relationship between individual components of agroecosystems (Article 3.1).

However, the basic legal framework for sustainable rural development is only at an early stage of development and the impact of the institutional factor remains hypothetical. Today, Ukraine has officially supported a number of international decisions on sustainable development, such as the "Agenda 21" (Rio de Janeiro, 1992), the UN Millennium Declaration (Resolution 55/2) (2000), the Johannesburg Declaration and the UN World Summit Implementation Plan. on sustainable development (Johannesburg, 2002), "The Future We Want": Outcome document of the United Nations Conference on Sustainable Development Rio de Janeiro, Brazil, 20–22 June 2012.

At the same time, it should be noted that these documents do not work in full force, as there is no national plan for the practical implementation of sustainable development ideas. One of the main reasons for this state of affairs is the lack of an approved national strategy for sustainable rural development and an action plan for its

implementation. There is also no concept and, consequently, implementation of current legislation to the provisions of international documents and agreements in this area. There is no balanced, coordinated policy of implementation of rural development in the state: some normative legal acts promote the policy of sustainable rural development as one of the priorities in the state regional policy, others - according to the old principles. Examples of this are the recently adopted State Strategy for Regional Development and the Concept of Rural Development.

Legal support for the development of rural areas is characterized by a high level of generalization, regulatory disorganization, alogism and irrelevance. A number of normative legal acts are symbolic, i.e. they have lost their real instrumental influence, but quite formally retain their force. It would be appropriate to reduce to the required minimum by-laws on rural development and to regulate this area of relations at the legislative level. In addition, for the successful legal provision of sustainable development of rural areas, the development of its standard model is a priority, which will be approved at the legislative level.

In connection with the above, it seems appropriate to adopt a special Law "On Sustainable Development of Rural Areas" (Kurman 2013, 189), which should consolidate and define the main categories and concepts, in particular "sustainable development of rural areas", its components (for example, "sustainable development of agricultural production"), as well as organizational, legal, economic and institutional principles of state agricultural policy in this area.

From the point of view of A. Stativka, adoption of such law would make it possible: 1) to consolidate the definition of sustainable development of rural areas and would allow specialists to operate with legally established categories; 2) to separate the production sphere in the countryside from the social sphere and sustainable development of rural areas, and therefore, would lead to separate financing, logistics of the latter; 3) as a normative act of higher legal force, it would determine the legal, economic and organizational basis for the implementation of state agricultural policy for sustainable development of rural areas (Stativka 2010, 50).

European Union legislation is also based on a broad interpretation of rural development as a category that combines social, industrial and environmental aspects. Based on the above, we can say that there is a real need for the proposed Law "On Sustainable Rural Development" to contain criteria for distinguishing production, social and environmental components of sustainable rural development, in particular, to establish their definitions, contain special rules and regulations in separate sections. But at the same time, it should be aimed at solving problems in these areas to ensure sustainable development of rural areas as a whole.

5. Principles of Sustainable Development of Rural Areas

From the standpoint of the above-mentioned methodology for the development of organizational and economic mechanism for implementing the strategy of rural development, integral, conceptually consistent knowledge of the laws of society (socio-economic), nature (biological), technology (technical) is needed. Taking into account these laws allows to ensure the functioning and sustainable development of rural areas as a natural and economic system built on the principles of interconnection and interdependence. This can only be achieved by following certain principles.

The importance of the principles of law is emphasized by P. Kulynych, according to whom legal ideas as one of the regulatory layers of the mechanism of legal regulation are manifested primarily in legal principles, which are not only derived from the content of positive law, but are formed by legal science as an initial element, initial stage in development and improvement of legal regulation of social relations (Kulynych 2011, 105).

The Resolution of the Cabinet of Ministers of Ukraine approved the State Strategy for Regional Development until 2020 and stated the basic principles of state regional policy: constitutionality and legality; cooperation; parity; openness; subsidiarity; coordination; unity; historical continuity; sustainable development (Cabinet of Ministers of Ukraine 2014).

Scientists of the State Institution "Institute of Environmental Economics and Sustainable Development of the National Academy of Sciences of Ukraine" believe that the introduction of the foundations of sustainable development in Ukraine should be based on the following principles: equality; responsibility; justice; partnerships; warning; consistency; compensation for losses; publicity; democratic governance (Hvesyk 2013, 6). However, the above principles ensure only the environmental friendliness of sustainable development, without taking into account organizational, economic, socio-demographic, cultural and educational and other features of rural development.

In the context of the above and as a result of the analysis of the provisions of national and European legal documents and the situation that exists within rural areas, we consider it appropriate to introduce into the practice

of agricultural legislation the principles of accompanying the process of sustainable development of rural areas, namely:

1) clear delineation of basic concepts and principles of doing business in rural areas. Obviously, one of the obstacles to the development of rural areas is the obsolescence of current legislation, their irrelevance, excessive generalization and ambiguity, which is an accompanying element for monopoly, discrimination against small businesses and ordinary peasants and the main obstacle to the development and harmonization of modern regulations acts, the provisions of which are aimed at sustainable development of rural areas;

2) market orientation. As a result of low profitability and competitiveness of agricultural producers, the low level of attractiveness of rural areas in general, leads to unattractiveness and hinders the entry of rural areas into the market. In our opinion, all regulations aimed at sustainable development of rural areas should pursue the principle of market orientation, because the results of work, whether in the social or industrial spheres will not be effective and useful. If they would not be paid, they will not bring income;

3) balance - characterizes the sustainable development of rural areas as a set of actions aimed at achieving balanced functioning of key components: social, economic and environmental;

4) adaptability of rural development involves the adaptation of parameters of socio-ecological and economic rural development as a system to changes in environmental parameters (exogenous factors), specific situations and more. After all, as noted above, only in a state of equilibrium effective economic, social and cultural development of the village on the basis of rational use and reproduction of natural resources will be ensured;

5) taking into account the regional features of rural development. For several years in a row, the issue of legal support for the decentralization of power in Ukraine has been at the forefront of scientific and parliamentary discussions. And this is not surprising, because foreign practice shows that targeted support for rural development is effective under special legislation that will take into account the characteristics of this object, taking into account its historical, cultural, geographical, industrial and other features. Sustainable development of rural areas is possible only with the support of subsidiarity, which involves addressing issues at the level where they arise;

6) local partnership (community engagement for cooperation). Local partnership in the field of rural development is a complex, mutually agreed cooperation of partners (rural communities, organizations, sectors), which begins with initiatives and continues with a joint search for new, high quality and most profitable solutions to existing and specific problems of rural community in environmental, social, industrial areas. The strategic element of such cooperation must be a local government and not just an individual, but a group of people (rural community, sectors, organizations, etc.);

7) separation, which means that a generalized or integrated assessment of rural development in connection with their multifunctionality is a rather complex procedure. This leads to the separation of its individual components (economic, financial, socio-demographic, environmental, cultural, political, etc.), which are characterized by certain features and parameters of development.

8) priority of quality, i.e. in modern conditions rural areas are considered viable if they prefer: the competitiveness of agricultural products; quality of goods and services; quality of life; quality of ecosystems; quality of production, social and market infrastructure, etc.

Under the conditions of the European choice of Ukraine, a significant number of the above principles of the theory of socio-economic development of rural areas of Ukraine need to be adapted to the relevant principles of the common agricultural policy of the European Union. Notably, the main ones were announced back in Treaty of Rome of 1957. In particular, this applies to such principles as: "free trade in agricultural goods between the European Union member states; common advantages of goods produced within the European Union over imported ones; joint financial responsibility of all Member States for market, credit and pricing policies, etc." (Vinska 2010, 7). Therefore, to develop an organizational and economic mechanism for implementing the strategy of sustainable development of rural areas, it is advisable to use the principle of concentration, which means that the financial resources provided by the European Union to individual member states or subjects of territorial and regional development be supplemented from local sources. Thus, traditionally 50% of the cost of a project is funded by European Union member state, and the contribution of depressed regions is at least 20 percent (Maksymenko 2000, 55).

In the last century, the European Union paid due attention to the problems of rural development - a number of government decrees and projects are based on a combination of agricultural production and socio-cultural component, which are the main priorities for sustainable rural development.

Conclusion

Given the above and considering the shortcomings of the current state of the institutional environment of rural development, we consider it necessary to radically change approaches to the development and justification of regulatory and organizational and economic measures to improve socio-economic development of rural areas. Success in this extremely important and difficult matter largely depends on how effective and efficient the policy of socio-economic development of rural areas and the mechanism of its practical implementation will be.

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