

ON THE QUESTION OF THE LEGAL CONSOLIDATION OF THE CADASTRE OF ARABLE LAND IN THE REPUBLIC OF KAZAKHSTAN

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Abstract

In article 38 of the Constitution of the Republic of Kazakhstan stipulates that citizens of the Republic of Kazakhstan must preserve nature and protect natural resources [1, p.3]. However, in Northern Kazakhstan, located significant areas of arable land to grow crops. We must not forget that arable land is the wealth of our country. It appears that in the world there is a shortage and the loss of arable land. However, the Land code of the Republic of Kazakhstan there is no concept of arable land. And this is in our opinion a significant gap, because not only the inclusion of these lands, but also their ecological and legal protection. After all, farms are free to determine the standards of use of chemicals and fertilizers. To increase the yield of peasant farms use huge amount of chemicals and fertilizers. It is obvious that uncontrolled discharge of these substances will inevitably impact on the preservation of arable land. Therefore, the problem of neutralization of uncontrolled use of agricultural chemicals and fertilizers, as well as the implementation of land policy of the Republic of Kazakhstan in the preservation of arable land, totally dependent on instruments of land control in the Republic of Kazakhstan. In relation to Kazakhstan's special role in this process, in our opinion, belongs to the cadastre of arable land as a tool of suppression of facts of destruction of land caused by the uncontrolled use of chemicals and fertilizers to increase the yield of the land. In our opinion, the legal consolidation of this institution is directly related to the legal mechanism of ensuring ecological safety in the use of chemicals and fertilizers to increase the yield of the land. In our opinion, there is a need for the introduction of the cadastre of arable land. It appears that the registration of land plots, which use chemicals and fertilizers requires the creation of a body of land control in the area of correct application of these substances in order to increase yields.

In item 1 of article 152 of the Land code of the Republic of Kazakhstan established the concept of land reclamation cadastre of irrigated lands. It says that reclamation cadastre of irrigated lands, is a system of information on land reclamation condition of irrigated land plots, assessing their quality characteristics for natural and irrigation-economic conditions, on account of their use [2, p.3].

However, in the Republic of Kazakhstan in our opinion, there is a need for the introduction of the cadastre of arable land, because the land reclamation cadastre of irrigated lands could not control the facts of irrational use of agricultural chemicals and fertilizers while increasing crop yields of arable land. In this regard, there is necessity for legal fastening of the cadastre of arable land in the Land code of the Republic of Kazakhstan.

Key words: cadastre of arable land, chemical fertilizers, chemical growth promoters productivity, integrated regulation, land control, chemicals.

Introduction

Meanwhile in the Land code of the Republic of Belarus adopted the notion of arable land. "Arable land is agricultural land, systematically cultivated (plowed) and used for sowing agricultural crops, including perennial grasses with the term of use stipulated in the scheme of crop rotation, as well as the output fields, areas closed ground (greenhouses, hothouses and greeneries) and bare fallows" [3, p.5]. In this case we are talking about that in this country understand the importance of fixing the legal regime of use of arable land. In our view there is a need to analyze the concept of arable land, with regard to the conditions of Northern Kazakhstan. First, arable land is agricultural land used for growing crops. Secondly, it is land cultivated (plowed) for the cultivation of crops. Thirdly, is used in the crops, in other ways the land use is prohibited. However, in Northern Kazakhstan livestock. Accordingly, the necessary forage base. And for this part of the arable land farmers use for growing perennial grasses. Fourth, the arable land used for growing perennial grasses, which are necessary as a forage reserve of livestock. Fifth, many entrepreneurs of North Kazakhstan, in the conditions of high prices for vegetables and fruits imported from the South, and develop greenhouses. Consequently, arable lands are used for growing greenhouse crops and further implementation to the local population. Not by chance in the Land code of the Republic of Belarus says that arable land is "also lead fields, areas closed ground (greenhouses, hothouses and greeneries) and bare fallows" [3, p.5]. Based on this analysis, we see that the notion of arable land the wider concept of reclamation cadastre of irrigated lands. By the way, this concept is enshrined in the Land code of the Republic of Kazakhstan. As the Land code of the RK it is only on those arable lands that are under irrigation. However, it is not clear what to do with lands not subject to irrigation? It is obvious that the Land code of the Republic of Kazakhstan there is a gap in the legal regulation of the mode of use of unirrigated land. On the basis of this thesis, there is a need to

consolidate the concept of arable land in the Land code of the Republic of Kazakhstan. However, you must keep records of arable land, and this in our opinion is necessary, the cadastre of arable land of the Republic of Kazakhstan. Since the current Reclamation cadastre of irrigated lands of the Republic of Kazakhstan, controls the mode of use is only of irrigated land. However, the question arises, who and how maintains records of non-irrigated land? So the Land code is necessary to distinguish the concept of rain-fed and irrigated land. It is no secret that in the conditions of Northern Kazakhstan the huge amount of arable land is rain-fed land. In our opinion, should the Land code of the Republic of Kazakhstan to strengthen the understanding of the cadastre of arable land. The purpose of the cadastre is the basis in determining the amount of payments for the land, including the cost of land plots within the real estate. This is stated in the Land code of the Republic of Kazakhstan. So, in part 6 of article 152 of the Land code of the Republic of Kazakhstan stipulates that the data of the state land cadastre is the basis for determining the amount of payments for land, cost of land plots within the real estate and cost of land as part of natural resources [2, p.3]. In our opinion, the introduction of the cadastre of arable land would replenish the revenue part of the Republican budget of the Republic of Kazakhstan. However, we must not forget that arable lands are a tool of food security. In our opinion, the implementation of the cadastre of arable land would strengthen the environmental component of this Institute. In this regard, I would like to emphasize the importance of this cadastre and early legal adoption of the Land code of the Republic of Kazakhstan.

In our opinion, the cadastre of arable land has the following functions:

- is ecological and legal nature;
- to control usage ratios of chemical fertilizers per unit area;
- to bring offenders to administrative responsibility for land damage;
- to demonstrate a rational relation to the use of arable land in Kazakhstan;
- encourage the rational and efficient land use.

In our opinion, the cadastre of arable land plays a very important ecological and legal role. Further legal consolidation of the cadastre would save the Fund of arable lands for future generations.

The introduction of the cadastre of arable land in the country would monitor the rational use of land. And this is natural. Stressing the importance of the Institute of Cadastre as arable land, we believe that the introduction of the cadastre of arable land is one of the most important ways of state regulation of social relations in the sphere of rational land use and conservation potential arable land.

As mentioned in article 156 of the Land Code of the Republic of Kazakhstan States that: "ameliorative cadastre is part of the State land cadastre" [2, p.3]. And here the question arises: can the Institute of land ameliorative cadastre to suppress evidence is not intended use of arable land in the country? Unfortunately, not in full. After all, the issues of irrigation is determined by the entrepreneur, given the increase in the yield of their land, while using different chemicals, fertilizers and growth stimulants. It is clear that addressing the current gap is necessary to concretize the terms of reference and the creation of the cadastre of arable land in the Republic of Kazakhstan Law "On cadastre of arable land in the Republic of Kazakhstan".

Thus, the development and improvement of legislation in this area due to the need to address a number of issues both scientific and practical nature, which should be marked. In our opinion, first and foremost, it is a clear legislative delimitation of land reclamation and arable land, their role in the prevention and suppression are not rational and target use of the fertile land of the country. Legislative delimitation of land reclamation and arable land cannot have a positive influence on the formation of effective land control in the use of fertilizers and chemicals, and, therefore, on strengthening the rule of law, prevention of misuse and irrational use of land resources.

Methods

Comparative legal method, dialectical method, deduction, induction, normative justification, theoretical and practical synthesis.

The main part. In the technical regulations "Requirements to safety of fertilizers" from 28 may 2010, establishes the legal regime of the use of agricultural chemicals and fertilizers, there are General rules, referring specific issues to the departmental acts of Executive bodies [4, p.3]. In addition, the Regulations do not fully regulate the procedure for the use of agricultural chemicals and fertilizers. So the farm shall independently determine the mode of use of various chemicals and fertilizers to increase the yield of arable land. However, pursuing entrepreneurial activities using a variety of chemicals and fertilizers, is guided by the desire to maximize profits. But this uncontrolled trend, as necessary on land control on the use of chemicals and fertilizers. In this regard, we believe that the uncontrolled use of fertilizers and chemicals from farms is unacceptable.

In our view, it would be appropriate in legislation to clearly define criteria for the use of various chemicals and fertilizers. Permission to use these substances, to provide for one year, i.e. for the duration of season of sowing and harvesting. And the period of use of biological stimulants to give up to five years. Accordingly, permission to provide those who will be able to ensure the ecological purity of its products. The inadmissibility of the regulation of the procedure for issuing permits for the use of various chemicals and fertilizers in the departmental acts of law-making due to the following reasons. First, the multiplicity and quality of these acts undermines the application of the Land Code of the Republic of Kazakhstan. Second, departmental acts of Executive bodies (orders and instructions of Executive bodies) is not always published in official sources, available to all members of society. Thirdly, in the absence of relevant laws, the Executive authorities empowered to issue acts to eliminate gaps in the legal regulation in the sphere of land use. Fourth, as practice shows, acts often define the scope and content of the use of agricultural chemicals and fertilizers, which is unacceptable for environmental security, since the scope of departmental lawmaking, usually limited to regulation of the production of environmentally friendly products.

Thus, the problem of legal consolidation of the Institute of arable land Cadastre as a tool to prevent spoilage of arable land is very urgent. Despite the abundance of joint departmental acts of the Committee for land resources, Ministry of energy and Ministry of agriculture, directly or indirectly regulating the issues of rational use of agricultural chemicals and fertilizers, there is the need to improve authorization procedures of chemicals and fertilizers, for the development of ecological land use. First of all, it is important to carry out the details of the procedure for obtaining permission to use any particularly strong chemicals in environmental land management and clearly defined in the Land code of the Republic of Kazakhstan.

Contribution to the prevention of damage to arable land is devoted to other forms of ecological safety and preservation of the Fund of arable lands. Among them the so-called permission for the use of strong pesticides, posts ground control, administrative liability for damage to arable land, etc. moreover, the initiative in finding such forms are not set by the Land Code of the Republic of Kazakhstan. However, taken in our efforts to prevent the deterioration of arable lands not commensurate with the prevention and suppression of land offences directly relevant to the future of Kazakhstan. That is why it is advisable:

- to consolidate the Land Code of RK, the notion of "arable land cadastre";
- eliminate the practice of interagency regulations governing the use of strong pesticides;
- to carry out activities to prevent the deterioration of arable land on the basis of the interaction of inventories and reclamation of arable lands in the Republic of Kazakhstan.

Exploring the problem of interaction of inventories reclamation and arable land, we are talking about a comprehensive regulation of the two legal subsystems. Following are the types of mutual influence of ameliorative cadastre and arable land:

- the influence of the Institute of the cadastre of arable land in the nature and content of measures to prevent deterioration of arable land;
- the ability of the Institute of the cadastre of arable land to curb the facts of destruction of arable land;
- the impact of the principles of interaction between the Institute and inventories reclamation of arable land on land legislation;
- the effects of assurance and the introduction of the cadastre of arable land in land law;
- the influence of the Institute of the cadastre of arable land for the implementation of the norms of the land legislation of the Republic of Kazakhstan.

And the impacts of the implementation of the cadastre of arable land in sustainable land management:

- the influence of the main principles of land law on the nature and content of the Institute's cadastre of arable land;
- change the land law in connection with the legal consolidation of the Institute of the cadastre of arable land;
- confirmation of the land law norms and principles of the institution inventories reclamation and arable;
- regulation of the procedure of obtaining permission for land management of arable land by new laws based on the norms of the implementation of the cadastre of arable land.

So from 2007 to 2014 in Kazakhstan was held agrochemical examination of soils of arable land, 17 million hectares, or 70.3% of the total area of arable land (24.2 million hectares). Of them on non-irrigated areas (land without artificial irrigation) surveyed 16.4 million hectares of arable land for irrigation - was 591.4 thousand ha. In survey for 25 years, the area of arable land soils with high humus content has dropped from 1.6 million to 255.5 thousand hectares, reported the press service of the Ministry of agriculture of the Republic of Kazakhstan [5, p.34].

Next important point is the study of the organizational and legal forms of interaction between the institution inventories reclamation and arable land in the Republic of Kazakhstan in the sphere of prevention and suppression of land offences and the introduction of land law in the legislation on cadastre of arable land. In 2014 the Republican scientific-methodical center of agrochemical service of the Ministry of agriculture of the Republic of Kazakhstan held agrochemical examination of soil on the area of 3.2 million ha, including 2.9 million ha, belonging to the area of natural farming, and 298 hectares of irrigated land [5, p.35]. We believe that this fact indicates the necessity of further reforming of the legislation on the land registry.

Conclusion

Thus, in our view there is a need for further improvement of legislation on land cadastre of the Republic of Kazakhstan. First, the interaction of inventories reclamation and arable land would preserve the Fund of arable lands for future generations of Kazakhstan. Second, legal forms of interaction of inventories reclamation and arable land in the Republic of Kazakhstan - is another facet to the problem. Third, the Land code there is no concept of the cadastre of arable land, in our opinion there is a need for its legal fastening in the law of the Republic of Kazakhstan "On the cadastre of arable land in the Republic of Kazakhstan". Fourth, the inventory of arable land in the Republic of Kazakhstan should be considered as a crucial tool to combat cases of unsustainable land use in the use of fertilizers and toxic chemicals. In our view, the notion of arable land will sound as follows. "Arable land is agricultural land, systematically cultivated (plowed) and used for sowing crops, including perennial grasses with the term of use, as well as the output fields, areas closed ground (greenhouses, hothouses and greeneries) and bare fallows". The legal recognition of this concept would, in our view, a more rational use of arable land. It appears that further implementation of this cadastre would improve the food security of the country.

References

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