

APPLICATION OF FOREIGN EXPERIENCE FOR IMPROVEMENT OF LAND RELATIONS IN AGRICULTURE OF UKRAINE

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Abstract

The main peculiarities of land relations abroad are highlighted in the article. Basic principles of foreign experience of land use regarding market circulation of land, concentration of major land resources by right of ownership as well as the process and ways of reformation of land relations are generalized and systematized. Some peculiarities of lease relations, collection of rents and restrictions on title to land for foreigners are analyzed. Some positive aspects are distinguished in order to use them in Ukraine. Some ways of improvement of land legislation in Ukraine are suggested taken into account foreign experience.

Keywords: foreign experience, land relations, title to land, land market.

Introduction

Evolution of land relations in different countries of the world happens in diverse ways because of differences in the historical development of economy, levels of economic and social development as well as the structure of agriculturally used areas and a number of other factors. The analysis of such experience leads to the conclusion that success of land relations improvement depends on the level of scientific validity, an extent of state regulation prudence and a degree of coordination of participants' interests of transformation and land market transactions. The aim of this research is to characterize the main peculiarities of land relations abroad as well as to generalize and systematize the main principles of foreign experience of land use and to suggest some proposals as to their implementation in Ukraine. As the question of application of foreign experience to improve land relations is important one, a lot of publications are devoted to this topic. Such scholars as Antipova L. I., Dankevych A. Ye., Kvitka H., Yurchenko A. D., Tkachuk L.V., Tretiak A. M., Cherevko H. V. and other well-known scientists are involved in researching, organizing, looking for some opportunities to implement international experience and its various aspects in Ukraine.

Methods of the research and materials

The research of works of domestic and foreign scientists, concerning application of foreign experience in the improvement of land relations in agriculture, data of State Office of Statistics in Ukraine, State Agency of Land Resource in Ukraine, scientific publications of scientists and results of personal research of the author were used.

Methods, applied in the presented research are based on dialectic approach, enabling the study of social and economic phenomena in correlation and dialectic mutual development. The method of abstraction was used in the process of investigation described in the given article. The method entitled a gradual transition from concrete issues to general notions and laws of development. The authors also applied the method of system analysis enabling the study of foreign experience of rational land management as a combination of elements and factors, creating the whole system of relations. The monographic method of the research helped to inspect and study scientific publications on the issue. The statistic method assisted in the analysis of dynamics of quantitative parameters as to lease payment.

Discussions and results

In Germany the federal act on land use is the basis of modern land policy and relevant regulations are adopted on its basis in each federal land (Balan, Ivanov, 2011). The legislation provides balance compliance between land areas and livestock numbers taking into account environmental balance on territories. In general, agriculture is considered as one of the main factors of environmental security of the country.

A detailed plan of land and its use in accordance with its designated purpose is projected in the Netherlands, where it is provided a separate type of activity for each land use with prohibition to engage it in any other type of activity except for the determined one.

In order to use such experience in Ukraine one should adopt a special law that would predict the need for zoning of the country, as well as to determine areas for agricultural purposes and an opportunity to obtain a special permission for construction of each non-agricultural building in such area. In addition, when calculating the effective ratio of agriculturally used areas, one should take into account the social need and products one should get on them. These calculations should be based on the consideration of physiological requirements of crops to environmental conditions.

In China land can neither be bought nor sold, but illegally Chinese can sell and buy it. But the government turns a blind eye to it understanding the limitation of carried out agricultural reforms and the necessity to open the land market based on the introduction of private ownership of land (Land as an..., 2002). Thus, formally the state maintains state and collective ownership in agriculture and denies any possible evolution towards private ownership of land and private business activity in agriculture (Tkachuk, 2009). The success of land transformation of China is not connected with egalitarian redistribution of land, but with creation of opportunities for circulation of land in order to create optimum sized of land plots and their effective use (Yurchen et.al., 2009).

In the UK all land formally belongs to the royal family, but titles to land are sold freely, allowing using it rather effectively, but it is very difficult to change the designated purpose of a land parcel. Owners of land are forbidden to sell their land plots to foreigners (Thomson, 1997).

In Italy the main purpose of land reform was to increase the effectiveness of use of land concentrating it in hands of those who involved in it farming as well as to intensify land market. Thanks to the state regulation of this process, farmers were able to buy land at the price lower than the market one. Besides, they were able to pay for land due to bank loans granted even for 30 years. Credit rate of such loan did not exceed 3.5% per year (Kvitka, 2009).

In Israel all land belongs to the state and its use is under strict government control (Cherevko, 2004).

In most European countries lease is the most common form of agricultural land use. For example, in Ireland only 0.2% of the country's land is sold in a year, in France - 1.4%, in England - 0.6%. As regards agriculturally used areas, 71% are leased in Belgium, 48% in the Netherlands, 47% in France, respectively, however, only 12% of land is leased in Latin America (Balan, Ivanov, 2011). Obviously, this is due to the fact that there is no private ownership of land in such countries as England, Denmark, Norway; land reclaimed from the sea in the Netherlands belongs to the state (Diiesperov, 2010).

The analysis of land reforms and their progress in the EU allows to conclude that those reforms had strong government support and they were aimed at concentration of land plots in order to increase their efficiency. A common feature for these countries is also state restrictions on purchase and sale of land underlining that there is relative freedom of land market there. But there are some regulations that outline specific benefits for some entities as to land lease. In the Netherlands and Israel, lease is the most common form of land relations providing high efficiency of agriculture. There are some possibilities for changing the designated purpose of agriculturally used areas in Italy, Slovakia, Lithuania, Sweden and the Czech Republic, however, in such countries as France, Germany and the UK it is extremely difficult to change agriculturally used areas (especially of high quality) into the category of non-agricultural land. In France legislation system is oriented to improve agricultural structure, redistribution of land, regulation of agricultural land market as well as it is oriented to preserve the designated purpose of agricultural land, that is why it is not even allowed to develop urban settlements in rural areas, and building works are limited only to construction of necessary buildings for husbandry on certain agriculturally used areas. In order to perform any transactions with land, an owner needs permission from the Special Administrative Committee (Diiesperov, 2010; Filatov, 2010). Norway is a model of the state's impact on the market circulation of agricultural land (Fedorov, 2007). Fragmentation of farms and plots of land during the change of owners or inheritance is one of the main risks of land market in these countries, thus land is mostly passed to only one owner.

Land relations and ways of their regulation are slightly unusual in the United States. The history of land relations in this country can be divided into two stages: in the first stage the major way of state regulation of these relations was aimed at expanding private ownership of land; the next stage of the formation of land relations was characterized by the restriction of land areas to be privately owned as

well as by buying them out by the state, monitoring their conditions and using them in private. Nowadays, 40% of land resources of the United States belong to the federal government, but arable land is not owned by the federal government (Holoida, 1999).

Lease of agricultural land as an organizational form of land relations is widely spread in countries of Western Europe. More than 70% of land is leased in Belgium, over 60% — in Germany and France and 35% — in the Netherlands. On average 40% of agriculturally used areas are leased in the EU (Dankevych, 2007; Lee, 1997; Tkachuk, 2009), as it is more profitable to lease land than to buy it in these countries and a leaseholder can lease two times more per unit area of owned land (Antipova, 2007). But among the developed countries there are also those where lease relationships are not so highly developed as to the amount of agriculturally used areas. For example, in Canada - only 30 % of agriculturally used areas is leased, in Japan – 20 %, in New Zealand – 14%, in Australia and Argentina - 5% (Ferenczi, 2005; Larsson, 1991). In these countries, private and public ownership of land prevails. For example, in the Netherlands 65% of agriculturally used areas are owned by the state, which is a major landlord in the country. However, hallmark of leasing relations in this country is the most attractive long-time lease of land - even for 99 years (as in Israel). Among leased 35% of land, 20% of land is leased from the state, 15% - from private owners. The largest plot of land (farm) to be leased is 3,000 ha in the Netherlands, it is leased from a private investment firm. Land is leased only by professional farmers who may run the farm without age limits, but the leased land can be transferred to son or daughter (Antipova, 2007).

The process of lease has different ways of implementation in different countries. In France, for example, landowners can get their land back after the expiry of a lease contract only if they declare intention to do farming by themselves. Otherwise, the agreement between a landowner and a tenant will continue automatically during the entire time if the tenant performs agricultural production during that period on this land. The minimum leasing period was nine years, but three decades ago it continued to 18 and 25 years (Antipova, 2007; Diiesperov, 2010).

In Germany, an extension of lease contract is done automatically only for one year, but if a landowner proves economically that the reduction in the term of lease will cause him property loss, this agreement will be in force after the expiry. Thus, in these cases the legislation protects mainly the rights and interests of tenants. In such countries as England, Sweden, Italy, a tenant does not have such protection, except in England, where agricultural lease can be inherited. Obviously, this is due to the fact that the most common form of lease of land relations in England is the long-term lease, but quite effective state regulations of these relations is carried out as well (Antipova, 2007).

In countries of Western Europe, almost 90% of agreements are concluded for more than nine years enforcing a full cycle of crop rotation and average — recouplement of capital assets. The minimum period of lease in different countries is regulated differently by the law: 6 and 12 years in the Netherlands and Italy, 6 and 9 years in Luxembourg, 9, 18, 25 years and until the end of employment in France, 10 in Sweden, 9-18 years in Belgium, 10 years in Portugal (using hired labor force) (Berezianko, 2009; Dankevych, 2007; Oleksiuk, 2008).

The rental value in various European countries varies from 20 EUR per 1 ha in Lithuania to nearly 400 EUR in Italy. In Eastern European countries, the figure hovers around 20-25 EUR, in Western European countries - 129 (Sweden), in Western Germany - 261. The rental value varies regarding the quality and purpose of agricultural land — for example, the rent of 1 ha of arable land is worth over 320 EUR, but of pastures — 230 EUR (Tkachuk, 2009). Nowadays land relations of economically developed countries are carried out in conditions of the developed land market, which is a real form of expression of these relations. It covers virtually all land transactions, or at least concerns them: land lease and exchange of land plots particularly with regard to the purchase and sale of land. At the same time carrying out market transactions with land as to purchase-sale of land plots is meant buying and selling of titles (rights of ownership to these areas, rights to use them, or rights of ownership and use simultaneously).

The legislation regulating the land market relations in the United States and some other countries (Germany, Belgium, France and Spain) allows removing land plots forcefully (if they are used ineffectively) and transferring them to owners and farmers who manage land efficiently. It is a positive feature of the legislation system of land market relations.

The orientation towards conservation of soil fertility in any organizational form of land relations is an advantage of foreign land legislation. But in Ukraine, there are no such mechanisms either legal or

economic which would encourage land users to comply with crop rotation as well as there are no such mechanisms regarding almost all aspects of efficient use of land funds and soil fertility recovery.

In Czech Republic, Poland, Hungary and Bulgaria some specialized funds are established. They buy small plots of agriculturally used areas and put consolidated land array to lease to large effective producers. Thanks to the work of specialized funds, organizational costs of land lease are reduced as well as costs to cultivate consolidated land array are less than to cultivate small land plots (Tretiak, 2009). In Poland the Agency of Agricultural Property of the Treasury, in which State Land Fund was transformed, deals with such transactions. The agency buys land and real estate from individual farms and sells to expanding owners (Balan, Ivanov, 2011).

In Bulgaria, foreigners can only inherit land, because in this country they are not covered by land title, as well as legal entities whose share of foreign capital is higher than 50% (Kvitka, 2009). Land reforms in Albania were a little bit different from those in Bulgaria. In Albania in the 1990s, agricultural cooperatives were completely eliminated and privatized free of charge by their former members in proportion to the number of members of their families. That is why agriculture of Albania is characterized by the high level of fragmentation - the average area of farm is 1.2-1.4 ha, which prevents farmers from efficient use of land and predetermines the need to implement ways to strengthen agricultural enterprises as well as to consolidate land array (Tkachuk, 2009). But since the 90s of the 20th century it has been prohibited to trade freely by land (Hudz, 2007).

In Switzerland and Germany there are no restrictions for foreigners to buy land, although in Germany there are some difficulties, as the authority that issues a permission, cannot let do it, if such an action is in the conflict with measures as to improvement of agricultural structures or in other cases. That is why foreigners have relatively insignificant share of land. In France, for example, such limitations are applied only to land occupied by vineyards, as they are considered to be a part of national wealth or if such a transaction is accompanied by the sum of more than 250 million francs.

In the USA foreigners are allowed to have private land, but in 28 states there are some restrictions as to land title by foreigners and, as a rule, they have title to agriculturally used land in states known as rest areas (Atta, 1998).

In New Zealand only a special court on the protection of land can conclude to buy or lease a plot of land over 2 ha by foreigners, but this decision requires detailed justification in each case.

Canada, regarding land titles by foreigners, has stricter regulations that are carried out at the level of provinces. For example, there are some limitations as to land area - not more than 8 ha of agriculturally used land as well as foreigners are not provided with preferential loans for purchase of land.

Thus, participation of foreigners in land relations of the country has a positive value; secondly, the participation in land relations of each country can be regulated by the state; thirdly, in Ukraine participation of foreign capital in agriculture through buying or leasing of land plots can be evaluated as a positive phenomenon, and it may increase investments in this sector of the economy, and the very participation, following the example of other countries, can reasonably be limited by government regulation. Nowadays only potential domestic buyers can deny this idea because they want to buy land after the abolition of the moratorium on its sale as well as they want to buy it at the lowest price and in low level of competition due to the absence of foreigners in the domestic land market.

In Armenia, Georgia, Azerbaijan, Moldova almost all land can be sold, but in Kazakhstan and Tajikistan it is allowed to lease it, however, it is forbidden to sell land plots. It is not permitted to foreigners and legal persons to buy land in Estonia, Hungary and Latvia as well, while in Belarus, Turkmenistan and Uzbekistan not only land plots but also rights to use them cannot be alienated (Hudz, 2007). Obviously, this specificity of land market in these countries is due to general attitude to private ownership of land.

It is necessary to add that there are some other restrictive points in land relations in the countries mentioned above. They are: limiting the size of land plots that can be used by one owner; the state planning of use of agricultural land; compliance with mandatory implementation of sustainable land management; zoning of land territories of the country and defining of the designated purpose of land in zones of certain regions; providing with integrity of land array and preventing land from fragmentation; monitoring of compliance with the designated purpose of certain land plots and maintenance of their fertility.

Of course, we cannot blindly follow foreign experience using it in our conditions. For example, in Ukraine there is economically an unjustified attempt to introduce mass farming like in the USA. Of course, a private farmer, like any other agricultural producers, has the right to exist and function. But it is necessary to create appropriate conditions for every phenomenon, not only of an economic nature. These conditions have not actually been created, that is why in Ukraine farming does not play such a role as it has been provided for and this situation, in its turn, greatly influences a low level of land use in agriculture. On the other hand, it is illogical and quite wrong to ignore foreign experience, but it is necessary to learn and use it, adapting to local conditions.

Conclusions

Thus, in order to improve land legislation in Ukraine with the aim of increasing efficiency of land relations as to transfer (purchase) of ownership (use or inheritance) of agriculturally used areas, taking into account foreign experience, it is reasonable to consider the following things: prevent farms and especially land array from fragmentation; concentrate on land array in order to increase the efficiency of its use; prevent the change of the designated purpose of land plot; ensure effective use of land plot according to the purpose by ensuring transfer of the ownership and use of it by a person who has appropriate qualification, experience and possibilities for effective management of this land; facilitate consolidation of population in rural areas; provide reservation of land plots for public purposes; promote the development of agriculture in less favorable regions; the trend for a gradual increase of the share of agricultural land in the state ownership in order to lease them.

To sum up, the experience of the development of land relations in foreign countries is a good guide for Ukraine to establish a system of the state regulation of this process as well as to avoid mistakes of these countries in its implementation.

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