

State Regulation and Institutional Support of the Market Turnover of Agricultural Land in Ukraine

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Summary

The article focuses on the need to strengthen state regulation and institutional support of the market turnover of agricultural land in Ukraine. The need to form an adaptive institutional field to support the organization of the agricultural land market is determined. The foreign experience of the formation of the legislative field regarding the market turnover of agricultural land is analyzed. Proposals for improving the efficiency of state regulation of market turnover of agricultural land are proposed.

Keywords:

land market, market turnover, state regulation, farming, land value, institutional support, cadastral service

1. Introduction

The problem of state regulation and institutional support of the market turnover of agricultural land in Ukraine is constantly under the close attention of foreign and domestic scientists. The article of Kung (2002) examined the problem of land lease in rural areas of China. Scientists Deininger, et al., (2003) focused on the formation of a rural land market in Nicaragua. Tian and Ma (2009) identified the means of state regulation of land relations by the Chinese government. Phuc et al., (2014) noted the peculiarities of the development of agricultural land for the development of cities in Vietnam. A significant number of scholars have identified the need to strengthen the regulatory framework as a condition for the formation of a renewed institutional environment (Zos-Kior, et al., 2021; Zherdetska, et al., 2021; Semenov, et al., 2021; Lozhachevska, et al., 2021; Gryshchenko, et al., 2021; Brockova, et al., 2021). Du et al., (2016) considered the issues of formation and state regulation of land pricing and noted key aspects of land market reform. Scientists Pansyryeva and Mazur (2021), Bulgakov, et al., (2019), Pronko, et al., (2021), Khodakivska, et al., (2019), Samborska (2020) proposed a methodology that should be used to increase the effectiveness of state regulation in the

context of land market reform. Knowing the work of scientists, we note the need to deepen the issue of state regulation and institutional support for the market turnover of agricultural land in Ukraine.

2. Methodology and Results

The issue of land market regulation is an extremely important issue for modern Ukraine. According to Figure 1, the land area of Ukraine is 603.5 thousand km².

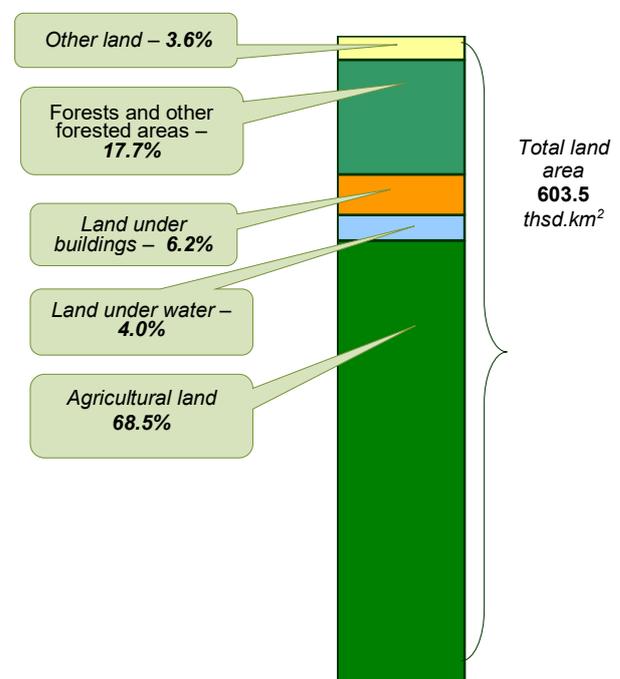


Fig. 1 Land area of Ukraine as of 1 January 2020.

More than 2721.2 thousand people aged 15-70 are employed in agriculture, forestry and fisheries of Ukraine (Fig. 2).

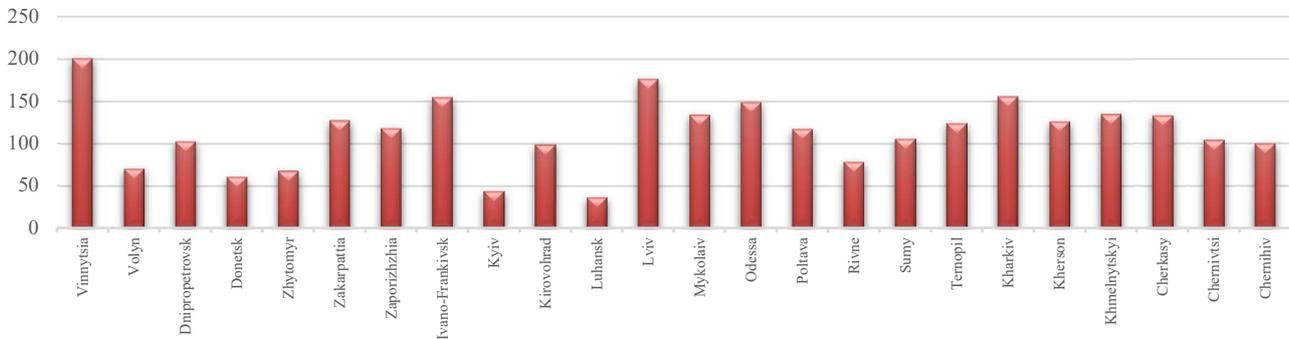


Fig. 2 Number of persons employed in agriculture, forestry and fisheries aged 15-70 (thousands of persons)

From 1 July 2021, in accordance with the Law of Ukraine On Amendments to Certain Legislative Acts of Ukraine on the Conditions of Circulation of Agricultural Land No. 552-IX (dated 31 March 2020), agricultural land was involved in market turnover.

A detailed study of this Law, which actually formed the Ukrainian model of market turnover of agricultural land, indicates that this model does not contain any positive aspects for the agricultural sector and is completely opposite to European and world practice of building and organizing the agricultural land market.

First of all, the form of the legislative act on the land market only amends other laws and is not an independent, clearly structured, integral normative legal act. For example, in Poland, the Law On the Formation of the Agricultural System No. 64 of 11 April 2003 clearly sets out the objectives of the implementation of the law, has a goal, clarification regarding the interpretation of the terminology used, etc..

At the same time, the Law of Ukraine On Amendments to Certain Legislative Acts of Ukraine Concerning the Conditions of Circulation of Agricultural Lands No. 552-IX (dated 31 March 2020) lacks the most important thing – the purpose of this normative legal act, goals and issues to address which this law is aimed. Only in the explanatory note to this law it is noted that the purpose of adoption of the law:

formation of the legislative field for the introduction of market turnover of agricultural land;

ensuring the constitutional rights of citizens of Ukraine to freely dispose of their property;

creation of transparent conditions for acquisition of ownership of agricultural land plots by citizens and legal entities of Ukraine.

In fact, the law on the agricultural land market in Ukraine was adopted to give landowners the right to sell it, in other words, the market for the sake of the market. In none of the countries of the world, with developed agriculture, the involvement of agricultural land in the market was not for this purpose. According to international experience, the purpose of launching a land market in agriculture in most countries is the development of family farming. As of 1 November 2020, there are 26,691 farms located in Ukraine on an area of 4,817.8 thousand hectares (Table 1).

Table 1: The number and area of agricultural land of farms of Ukraine as of 1 November 2020

	Number of farms		Area of agricultural land	
	units	percentage to total enterprises	thsd.ha	percentage to total area of agricultural land
Farms that had agricultural land including area, ha	26691	83.8	4817.8	100.0
up to 1.00	74	0.2	0.1	0.0

	Number of farms		Area of agricultural land	
	<i>units</i>	<i>percentage to total enterprises</i>	<i>thsd.ha</i>	<i>percentage to total area of agricultural land</i>
1.01–3.00	742	2.3	1.7	0.0
3.01–5.00	985	3.1	4.2	0.1
5.01–10.00	1729	5.4	13.6	0.3
10.01–20.00	2797	8.8	43.7	0.9
20.01–50.00	8795	27.6	332.4	6.9
50.01–100.00	3947	12.4	282.5	5.9
100.01–500.00	5369	16.9	1258.3	26.1
500.01–1000.00	1262	4.0	897.7	18.6
1000.01–2000.00	690	2.2	951.3	19.8
2000.01–3000.00	171	0.5	411.1	8.5
3000.01–4000.00	65	0.2	219.2	4.6
more than 4000.00	65	0.2	402.0	8.3
Farms that did not have agricultural land	5160	16.2	x	x

In different countries of the world, the involvement of agricultural land in the market turnover of farmers is directed to achieve development goals, at the forefront in the agricultural sector. Unfortunately, this practice has been ignored in Ukraine. One of the main tools for regulating the market of agricultural land in the world is the preemptive right to purchase land. The purpose of this tool is to create conditions under which the land will remain in the turnover of family farms. The concept of preemptive law provides for the primary right to purchase land in this sequence: Sequence of land purchase; Landholder; Owner of a neighboring/adjacent land plot; A farmer from the area where the plot is located; Specialized state land agency. The Ukrainian model also provides for the preemptive right to purchase land, but it has nothing to do with world practice. According to the Law of Ukraine On Amendments to Certain Legislative Acts of Ukraine on Improving the System of Management and Deregulation in the Sphere of Land Relations No. 423-IX (28 April 2021), the following entities have the preemptive right to purchase agricultural land: a) first of all – a person who has a special permit for the extraction of minerals of national importance (non-ferrous metal ores, precious metal ores, metal ores of rare metals and rare earth metals, radioactive metals, electrical and radio engineering raw materials;); b) secondly – the lessee of the land plot.

And most importantly, the preemptive right to purchase an agricultural land plot is exercised provided that the subject of the preemptive right pays the price at which the land plot is sold, and in the case of sale at an auction (land auction) - if its offer is equal to the offer is the largest of those proposed by the auction participants (land auction). Thus, the very concept of preemptive law in Ukraine is not aimed at supporting or developing farming or anything else, this tool is there but its effect is completely leveled. The market for agricultural land should be regulated or free – there have been significant discussions about this in Ukraine. However, international experience has long provided an answer to this question – only regulated. Nevertheless, such experience was ignored in the Ukrainian model of market circulation of agricultural land. Each

European country regulates and controls the market of agricultural land through specialized agencies: Poland – KOWR; Germany – BVVG; France – SAFER, etc. These institutions, on behalf of the state, participate in transactions for the purchase and sale of land.

Specialized land agencies monitor transactions in the market of agricultural land and, under certain conditions, exercise their right to purchase land by disposing of state-owned land on behalf of the state. It looks like this – a plot of land is being sold in a certain region, among local farmers for various reasons (for example, high price), none of them expressed a desire to purchase it. A specialized land agency buys such a land plot and resells it within a year on favorable terms for local farmers (tax exemptions, installment payments, partial price reductions, loans, etc.). As a result of the functioning of such agencies, there is state control over the land market, support for young (newly created) farms, preservation and expansion of land ownership of farmers, redistribution of land in favor of owners working and living in the region where the land plot is located. In turn, in Ukraine, the main entity in the land market in the form of a specialized land agency has not been created. The State Service of Ukraine for Geodesy, Cartography and Cadastre carries out the disposal of agricultural land on the land market. Among European countries, state land cadastre management services, in the forefront, perform the functions of collecting, processing, storing and organizing access to cadastral, geodetic and cartographic information. None of the cadastral services is the administrator of state-owned agricultural land.

According to the official information of the Ministry of Agriculture and the State Geocadastre, the average price of agricultural land for the first month of the market is more than 40 thousand UAH/ha. However, during the monitoring and study of transactions, land plots were identified in Kyiv, Odessa and Lviv oblasts, the value of which amounted to more than 700 thousand UAH/ha and an area of less than 1 ha, with the location of such lands near megacities with the probable redemption of them for development, rather than use in agriculture. In order to avoid distortion of data and to obtain an objective price of agricultural land, the plots of

land with a value not exceeding UAH 150,000/ha were taken into account. As of 1 August 2021, the value of agricultural land was the following (Fig. 3).

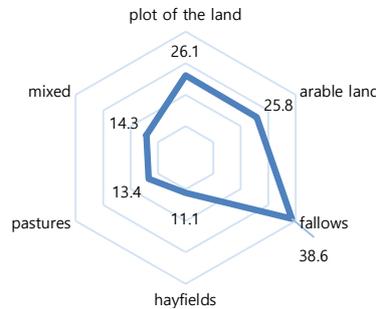


Fig. 3. The value of agricultural land in Ukraine as of 1 August 2021 (thousand UAH/ha)

During the first month in Ukraine, 80 thousand agricultural land plots with a total area of 193 thousand hectares were alienated, in particular: 119 thousand hectares or 62% – arable land; 264 hectares or 0.1% – fallows; 10.2 thousand hectares or 5.3% – hayfields; 27.4 thousand hectares or 14.2% – pastures. The most expensive value of agricultural land in Kyiv oblast – 48.2 thousand UAH/ha; Ivano-Frankivsk oblast – 45.1 thousand UAH/ha; Odessa oblast – 40.9 thousand UAH/ha and Lviv oblast – 39.3 thousand UAH/ha.

During the first month of the land market, as expected, a number of problems arose. The work of notaries in many areas has been blocked; people pay attention to the fact that they cannot find a notary who can be contacted for registration of purchase/sale of agricultural land. The reasons for this are that notaries are reluctant to certify such agreements, as there are a number of problems and uncertainties that are expected to be clarified by the Ministry of Justice. In turn, a small number of notaries, who undertake to certify such agreements, using their monopoly position, charge for their services on average – 15 thousand UAH for each transaction. In fact, today the land market is partially blocked due to this issue. There are queues for notaries for two months ahead. In fact, by the end of this year, the land market will be partially blocked. Farmers who expressed a desire to buy land but did not have enough money to do so were unable to use the services of banks to obtain mortgage loans. The problem is that the bank considers a loan for an individual to buy land as a consumer loan, in turn, there are different interpretations of the law on consumer lending, according to which a non-consumer loan to an individual cannot be provided, and a consumer loan to purchase land (used for business activities) is prohibited by this law. Therefore, any bank may, based on applicable law, legally refuse to provide a loan to purchase land. Currently, banks consider the land market until 2024 as a pilot project and do not expect to work actively until the entry of legal entities and foreigners. There were also problems with determining the market value of land. The analog method

(valuation through selection and comparison of similar land plots by properties, location, etc.) to determine the appraised value of the land plot, which is the basis of the valuation, does not work at the moment, as the market has only earned and the necessary basis for this method. As a result of the absence of analogous land plots, in order to determine on their basis the value of the land plot submitted for valuation, the valuation of the new land plot is delayed for 2-3 weeks for reviewing.

In addition, the valuation of agricultural land through the State Property Fund is inadequate, one land plot of 1.5 hectares is estimated at 26 thousand UAH, another land plot of 1.5 hectares is estimated at 200 thousand UAH; 5.6 ha expert valuation for UAH 56.5 million; or land in one act 1.9 ha of arable land – 31 thousand UAH, 0.23 ha of pastures – 200 thousand UAH. Now the question arises of how to use such a valuation, because such data not only distorts the general information about the value of land in Ukraine and regions, but also significantly slows down the very procedure of valuation and purchase/sale of a land plot.

The problem with the valuation of agricultural land through the State Property Fund is that the calculation is made (compares analog land) by analyzing advertisements for sale from the OLX and LUN websites. That is, no formulas, correction factors that would take into account the quality characteristics, location, area, and most importantly the agricultural value of land is not included in the “calculator of land valuation”. This explains the “inadequacy” and distortion of the market value of agricultural land. Because when placing an ad for the sale of land on OLX and LUN, the author puts the price he or she considers necessary (often much more than it should be in economic terms), in turn, “valuation calculator” analyzes this information and forms “inadequate” indicators on the basis of it.

3. Conclusions

Thus, there is a need for further regulation of state regulation and institutional support for the market turnover of agricultural land in Ukraine. There is a need to improve infrastructural support, to completely reformat the regulatory policy. This is especially important in the context of Ukraine's approach to European standards. Ensuring the constitutional rights of Ukrainian citizens to freely dispose of their property and creating transparent conditions for the acquisition of agricultural land by citizens and legal entities of Ukraine should be a priority in the process of state regulation of the market circulation of agricultural land. In addition, there is a need for further work to resolve the issue of determining the market value of land.

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