



UDC 342(477:100):349.412]:34.05(043.5)

DOI: 10.31548/law2022.01.008

Legal Bases of Land Use in Ukraine and Canada: Comparative Legal Aspect

Bogdana L. Kovach^{1*}, Margaret Bernar²

¹Yaroslav Mudryi National Law University
61024, 77 Pushkinska Str., Kharkiv, Ukraine

²Université McGill
H3A 0G4, 845 Rue Sherbrooke O, Montreal, Canada

Article's History:

Received: 09.11.2021

Revised: 20.01.2022

Accepted: 23.02.2022

Abstract

The issue of land use plays an important role in shaping Ukraine's economy. Therefore, the study of the market for agricultural land is a high priority and relevant to legal doctrine, as this issue directly affects the national security of the state, because it involves control over the risks that may arise conditioned upon the high concentration of areas agricultural land owned by one person, uncontrolled acquisition of land by foreigners, and partial monopolisation of certain segments of the agricultural market. The purpose of this work is to carry out a comparative legal analysis of the legislation of Ukraine and Canada in the field of land use, highlighting their common and distinctive features. To achieve this goal, the article used several methodological approaches and methods for research, including functional and theoretical approaches, the method of logical analysis, synthesis method, formal-legal method, method of comparative analysis, method of analysis of scientific literature. After the research, the theoretical and practical principles of this issue were obtained. The first includes the analysis of regulatory frameworks of Ukraine and Canada, and the second analysis of direct methods and approaches used in these countries during land use. Based on the results obtained, differences were formed between the legal basis for the implementation of the above process and revealed positive aspects that would be appropriate to implement in future rule-making activities in this area of Ukrainian legislation. In the further works it is necessary to determine the prospects of the methods on which the current land policy of both countries is based and to identify ways to increase its effectiveness. As for the practical value of the work, it certainly lies in the fact that it identifies the main theoretical aspects related to the implementation of land reform in Ukraine, and thus facilitate the interpretation of certain rules for both ordinary citizens and civil servants

Keywords: agricultural lands, land reform, legislation, land market, land policy

Suggested Citation:

Kovach, B.L., & Bernar, M. (2022). Legal bases of land use in Ukraine and Canada: Comparative legal aspect. *Law. Human. Environment*, 13(1), 65-72.



*Corresponding author

Copyright © The Author(s). This is an open access article distributed under the terms of the Creative Commons Attribution License 4.0 (<https://creativecommons.org/licenses/by/4.0/>)

Introduction

The comparison of Ukraine and Canada in this study is not accidental, this explained by the fact that the issue it raises concerns land use policy, in particular the land market, which is quite different in these countries. Before describing the features of the practical implementation of their land use policy, it is advisable to consider its theoretical concept, to fully understand the subject of research [1]. Thus, the term land use should be understood as the development of land distribution based on the prospects of improving the country's economy and the organisation of the territory, establishing and consolidating other approaches to efficient and safe land use and protection not only within the state but also in isolated regions and other administrative units. It should be noted that the determining factor in the use of land is the method of land use, as it plays a significant role in terms of agricultural development of the country and in the social sense [2].

As for the legal framework governing land use, in Ukraine it consists of the Constitution of Ukraine [3], the Land Code of Ukraine [4], the Law of Ukraine "On Land Protection" of 06/19/2003 [5], the Law of Ukraine "On State Control Over Land Use and Protection" of 06/19/2003 [6], the Law of Ukraine "On Basic Principles (Strategy) of the State Environmental Policy of Ukraine until 2030" of 02/28/2019 [7], the Law of Ukraine "On Amendments to Some Legislative Acts of Ukraine on the Conditions of Circulation of Agricultural Land" from 03/31/2020 and other local regulations [8]. Therefore, it can be argued that the Ukrainian regulatory framework in the field of land use is quite capacious and meaningful. However, regardless of its volume, there are more and more questions and contradictions regarding the regulation of such economic relations, which in turn play an extremely important role for the socio-economic development of Ukraine. That is why the study examines the historical path of land reform, which was implemented in our country in 2001. In addition, this paper identifies the main gaps that need to be urgently addressed in land legislation, for a smooth process of land use policy [9].

Another component of the article, which is quite different from the previous one, is an analysis of the regulatory framework for land use in Canada. The absolute distinction is the different views and approaches used in these countries. Given that Canada is currently one of the most developed countries, and it has a positive experience in land market reform, it is advisable to trace the historical development of such reform and identify priority aspects that need to be applied in the future in Ukraine to accelerate this process [10].

Given the above, it should be noted that the *purpose of this work* is to study the process of land reform in Ukraine and Canada, in particular at the legislative level, and in the practical determination of its impact on socio-economic development. To achieve this goal,

a number of tasks were identified in the work, in particular: in-depth study of the legal system of Ukraine in the field of land use, trace the development of land reform since 2001, identify gaps in legislation and prospects for action by the government concerning regulation of land relations. In addition, the paper should analyse Canada's experience in this area, identify differences in the country's legislation with Ukrainian law, analyse the conditions of land reform implementation, and draw conclusions based on their historical development, which will be useful for the reform process of land relations in our country.

Materials and Methods

Since this scientific work is quite broad in scope and content, a necessary condition for its implementation is the use of a large number of tools for research, namely methodological approaches and scientific methods. This is conditioned upon the fact that the subject of the article contains various elements that certainly need to be analysed to study in depth the issue, namely the legal aspects of land use in Ukraine and Canada [11]. Based on the functional approach, the work was divided into several stages and the functions and tasks for each of them were defined. As for the theoretical approach, it helped to consider in more detail such concepts as land use and land market, their main features and characteristics, including the principles on which their implementation is based.

Undoubtedly, the use of the method of logical analysis was important in the work, because due to it the topic of the work was divided into several components, which allowed to thoroughly consider each of them. That is, the issue of land use was divided into theoretical and practical aspects, which resulted in an analysis of both the legal framework and directly the methods of practical implementation of land policy. Next in the work was the method of synthesis, which is the opposite of the previous one, because on the contrary combines the separated components. This process is extremely useful for research, because it traces the main features that are different in the legislation of Canada and Ukraine in the field of land use. The formal-legal method is thorough in the work, based on which the study and interpretation of legal norms enshrined in the legislation of both countries was carried out, which allowed considering in detail the legal aspect in the implementation of land use policy.

Since the work is performed in the form of comparative law analysis, the method of comparative analysis plays a significant role in it. This is conditioned upon the fact that the essence of the article is formed on its basis, and so its practical and theoretical value is directly dependent on it. As a result of its application, the legislation of Ukraine and Canada was compared, which allowed identifying differences between them,

and drawing the necessary conclusions that will be useful for the implementation of land reform in Ukraine. The method of analysis of scientific literature also played an important role in the study, as it analysed the opinions and approaches of various scholars to this issue, which resulted in the study of modern legal doctrine in this field by analysing scientific articles, theses, dissertations and monographs.

It should be noted that the work is divided into three stages, namely:

1. At the first stage, the current normative legal acts of Ukraine regulating the basic principles and procedure of land use were considered in depth, including the historical development of land reform and its prospects for future socio-economic development of the country.

2. In the second stage, the legislation of Canada was studied and the changes implemented in the country in the field of land relations, in particular during the land reform, were followed. Also at this stage, the main legal aspects of these countries were compared and important recommendations for Ukraine were formed, based on the positive and effective Canadian experience.

3. At the third stage, conclusions were drawn based on the results of the work, which summarised the main differences between the legislation of Ukraine and Canada, and identified a number of measures to be taken in our country for further effective development of land use.

Results and Discussion

The issue of regulation of land relations, and thus their use has always been relevant for Ukraine, as it ranks fourth in the world in terms of agricultural land. Under land relations should be understood public land relations that arise in the field of interaction of society with the environment and regulated by land law. Land relations are a special type of property relations concerning land, which are regulated by land legislation. The specificity of relations related to land, due to the specific features of the subject of these relations — land — as an object of nature, spatial and territorial basis, territory and the main means of agricultural production [12].

Thus, in these relations there are generally established principles governing public relations, determined by the rules of law, the implementation of which is carried out by the state. It is important to note that they are formed between entities such as the state, legal entities or individuals. It is expedient to divide land legal relations according to the institutes of land law, which differ in the form of their implementation. From this, we can distinguish land relations arising in the field of land ownership, relations formed as a result of the exercise of the right of common land use, and land relations in the context of land use management and protection [13].

As for public relations in the field of land use management and protection, they are implemented when the state or relevant local authorities perform their functions, namely, provide ownership or use of land with the

issuance and registration of specific documents, and this process is accompanied by the maintenance of the state land cadastre. In addition, the Land Code of Ukraine [4] provides for the distribution of land to their intended purpose. Land used for agricultural production belongs to agricultural land, which in turn is further divided into agricultural land, in particular: arable land, perennials, hayfields, pastures and fallow lands. Another category of land is non-agricultural land, which includes farm paths and runs, forest strips and other protective plantings, other than those classified as land of other categories, land under farm buildings and yards, land under the infrastructure of wholesale markets for agricultural products, temporary land conservation, etc.

Based on this classification, it should be noted that Ukraine has more concentrated resources for agricultural use. Undoubtedly, the most important of all resources is land. This conclusion can be made based on the fact that the total area of agricultural land in Ukraine is 41.3 million hectares, of which 33 million hectares are arable land. Analysing these indicators, it should be noted that Ukraine is provided with a large amount of land resources, in particular, as mentioned above, a significant proportion of them are agricultural lands, which indicates a high potential for farming and improving the socio-economic condition of the state in the context of taxes received from this industry, but at the same time this situation implies the lack of reserves for future expansion of land resources [14].

Having identified the theoretical concepts of land use, it is advisable to review the Ukrainian legal framework governing such relations. It constitutes the Constitution of Ukraine [3], in turn, the central legislative act is the Land Code of Ukraine [4], the Law of Ukraine “On Land Protection” of 06/19/2003 [5], the Law of Ukraine “On State Control over Land Use and Protection” from 06/19/2003 [6], the Law of Ukraine “On Basic Principles (Strategy) of State Environmental Policy of Ukraine for the period up to 2030” from 12/28/2019 [7], the Law of Ukraine “On Amendments to Certain Legislative Acts of Ukraine on the conditions of circulation of agricultural land” from 03/31/2020 [8], 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” from 04/28/2021 [15], the Law of Ukraine “On Amendments to Certain Legislative Acts of Ukraine Concerning the Provision of Land Plots to Cultural, Educational and Health Care Workers Living in Rural Areas” of April 20, 2004 [16], the Law of Ukraine “On Amendments to Certain Legislative Acts in Ukraine on the delimitation of state and communal lands” of 09/06/2012 [17], the Law of Ukraine “On Amendments to Certain Legislative Acts of Ukraine on Documents Certifying the Right to Land, as well as the procedure for division and consolidation of land plots” of 03/05/2009 [18], the Law of Ukraine “On Land Valuation” of 12/11/2003 [19], the Law of Ukraine “On

Land Lease” of 10/06/1998 [20]. Having formed a full-fledged system of normative legal acts constituting the land legislation of Ukraine, it can be argued that some of them are obsolete, and therefore unable to cover the entire scope of land relations, which leads to disputes both in the process of application and in the course rule-making.

Considering the general Ukrainian legislation, it is necessary to specify the subject of work, namely the object that will be compared between Ukraine and Canada, of course, based on their common feature, namely the presence of a large number of agricultural lands. In particular, it can serve as land reform, as it is carried out in both countries, affects changes in legislation, including the overall socio-economic development of countries. Thus, it should be noted that this reform was one of the longest in Ukraine, in particular it began on March 15, 1991 and consisted in the fact that the land was transferred from state to private ownership, but the ineffectiveness of this process is evidenced by the fact that before at this time, not all owners received the right to dispose of their agricultural land [21].

In addition, in 2001, the Land Code No. 2768-III was adopted in Ukraine, which provided for the introduction of a moratorium on the alienation of agricultural land [4]. Under this concept should be understood the statutory temporary ban on the purchase, sale, otherwise alienation of agricultural land of state and communal ownership, land owned by citizens and legal entities for commercial agricultural production, land allocated to in kind (on the ground) to the owners of land shares (units) for personal farming, and land shares (units) [22].

The first legislative attempt to introduce the land market was the submission of the Draft Law “On the Land Market” of 12/07/2011, but it was rejected and withdrawn in 2012 [23]. This bill was important for Ukraine’s land legislation, which could accelerate its development in the sector and bring our country closer to Canada’s success. This is conditioned upon the fact that it provided for the implementation of land reform and the introduction of the land market, in addition, its main advantage was the lifting of the moratorium on the sale of agricultural land and the ban on land sales to foreigners and even the development of the State Land Bank [24].

The defining step in this 30-year process was the adoption by the Verkhovna Rada of Ukraine of the draft Law of Ukraine “On Amendments to Certain Legislative Acts of Ukraine on the Circulation of Agricultural Land”, which entered into force on 07/01/2021 [8]. It is worth noting that the draft Law has some differences from the Law itself, in particular, they are that the current regulations do not contain provisions on the involvement of medium and large agricultural producers, which were mentioned in the draft. The purpose of the current land reform is to ensure the realisation of the constitutional rights of citizens to freely dispose

of their property; development of territorial communities by transferring state-owned agricultural lands to their disposal; transparent and efficient management of land resources that cannot be transferred to territorial communities.

In addition, this legal act aims to consistently eliminate the current ban on the alienation of privately owned agricultural land with a number of restrictions, which in turn are limited to restricting their acquisition by individual entities, and to control the concentration of land to a certain area owned by one person. However, it should be noted that the ban on the alienation of state and communal lands is quite effective. Exceptions to this list are lands of state and communal farms, which belong to citizens on the right of permanent use, including lifelong inherited possession. These entities will be able to have the right to purchase them in the future with the possibility of deferred payment for 10 years. It should also be noted that this law eliminates restrictions on changing the purpose of land in the prescribed manner; this approach will meet the needs of other sectors [21].

Since the paper needs to consider all legal aspects of this issue, it is advisable to compare the provisions of the adopted law [8] with the relevant provisions of the Constitution of Ukraine [3]. This step will help identify existing gaps to avoid them in future regulations. Therefore, given the novelty of this document, it is impossible to consider the practice and decisions of the Supreme Court of Ukraine on this issue, as all applications are still under consideration. Nevertheless, it can be established that most issues arise in the aspect of providing the opportunity to acquire ownership of agricultural land to other entities that are not citizens of Ukraine. This is conditioned upon the fact that this law [8] stipulates that foreign entities, both natural and legal, will be able to purchase agricultural land, but this process is somewhat limited, as it is an important condition, namely the approval of such a decision in a referendum. In addition, residents of the aggressor or occupying power, and other sanctioned states, may not have such an opportunity.

Thus, it should be noted that the entry into force of the Law of Ukraine “On Amendments to Certain Legislative Acts of Ukraine on the Circulation of Agricultural Land” from 07/01/2021 is undoubtedly the first thorough and effective step in the process of land reform and implementation of such an institution as agricultural land market [8]. In addition, the advantage of such a process is that it is carried out in stages, and thus gives all its subjects the necessary time to prepare for it. Moreover, land lease does not change its status as a result of a change of land owner, so this approach is a very promising tool in the agricultural market of Ukraine and in land use relations.

As for Canada, land reform was carried out there in the 19th century, and from this it can be argued that it has more experience in the development of the

agricultural land market. Its purpose was to abolish the existence of the landlord class and give the right to land and natural resources of the first settlers. Under a law passed back in 1872, anyone who wished to relocate to Alberta, Saskatchewan, and Manitoba and farm there for only \$ 10 was given 65 acres of land. However, it was important to fulfill one condition, namely that the provided land should be used for its intended purpose, and can not be resold [25].

The Gratuitous Land Act [26] for certain provincial regions was repealed in 1930, and for full-fledged territories in 1950 and throughout its existence, only 5% of land in Canada was transferred to private individuals. Canada's land fund in the late 20th century is characterised by a sharp increase in leased land. In 1971, 28% of the land was leased, and in 1991, 37% of the land. Determining factors that contributed to the spread of land use in the form of its lease are: the lack of tenants' ability to independently and rationally carry out economic activities on their leased lands; tenants benefited more from farming in the context of land leases because they had some freedom to maneuver their financial resources. In addition, a special feature of improving the lease institution in Canada is certainly the active role of the lessor state. This directly depends on the establishment of the Land Bank, which existed until 1982), its main function was to increase the efficiency of the mechanism of transfer of leased land to future generations of farming families, including developing and consolidating various alternatives for those who wanted to change the law land ownership.

Currently, Canada ranks second in the world in its area of 10 million square meters. 7% of this area is used for agriculture, in particular 68 million hectares, in turn arable land occupies 5% of the total land area, and cultivated land — 4%, which is 41 million hectares. In terms of the area of land cultivated, Canada ranks 5th in the world. It is worth noting that about 90% of Canada's land belongs to either the federal government or the provinces. In particular, almost 60% of agricultural land is privately owned. However, in contrast to Ukraine, this country is characterised by an active and progressive market for agricultural land [27].

An important feature of Canada is that the control of the dynamics of the agricultural land market is carried out separately in each province. In addition, they have the right to impose specific restrictions, such as on the purchase of land by non-residents of the provinces. As for the powers of the federal government, they are certainly broader, as it can impose restrictions on foreign investment in agricultural land, provided that they pose a threat to national security [28].

There are no restrictions on the area you can buy, except for the province of Prince Edward Island. In this province, an individual may not own more than 1,000 acres (404 hectares) and a legal entity may not own more than 3,000 acres or 1,214 hectares. Foreign

individuals and legal entities can buy no more than 5 acres (about 2 hectares) without government permission. In Quebec, foreigners can buy no more than 10 acres (4 hectares) without the permission of the Commission for the Protection of Agricultural Territories of Quebec. The maximum size with a permit is 2,470 acres (about 1,000 hectares). In Manitoba, foreigners cannot buy more than 40 acres or 16 acres. Unless authorised by the Manitoba Board of Agriculture. In Saskatchewan, foreigners cannot buy more than 10 acres or 4 hectares. In Alberta, foreigners can buy no more than two plots with a total area of 20 acres or 8 hectares. Interestingly, the sale of land is not limited at all in British Columbia and Ontario [29].

In view of the above, it should be noted that in Canada, there is no legal norm that would require federal monitoring of foreign investment in the agricultural land market, and the implementation of national regulation of such markets, in particular in the United States (hereinafter — the US). In Canada, in turn, as noted above, each province has a full right to impose its own restrictions on foreign investment, including the amount of land that one entity can acquire. This rule does not apply only to Prince Edward Island, as there are limits on the acquisition of land by both residents and non-residents. Nevertheless, in the vast majority of provinces, including those with the largest number of agricultural lands, such restrictions are implemented only for non-residents [30].

The aspect of inheritance transfer requires special attention, as no taxes are levied on its use. As for other provinces, they are determined separately there. In Ontario, Toronto, Quebec, British Columbia, Prince Edward Island, Newfoundland, the Northwest Territories, New Brunswick, the Yukon, Nova Scotia and Montreal — 0.5-2% of the transaction amount or fixed rate. In Manitoba, the registration fee is 70 US dollars and a tax of 0-2% of the price. In Alberta and Saskatchewan, the registration fee is about 0-0.3% of the transaction amount or surcharge [31].

Considering the legal basis for the existence of the agricultural land market in Canada, it can be noted that it was in this country that one of the largest land market reforms in the world was implemented. An important and distinctive feature of this country is that to prevent the abuse of certain positions in the sale of state land, all these operations take place only in open auctions, which ensures the transparency of this process.

Comparing the legal aspects of land use regulation, on the example of land reforms, in Ukraine and Canada, it should be noted that these countries are at completely different levels of development, due to the duration of such changes. In particular, despite the fact that land reform has been implemented in Ukraine since 1991, such an institution as the land market appeared only a few months ago, so in our country at the moment there is no sufficient list of regulations that

would fully consolidate the entire procedure for the sale of agricultural land, and determine the rights and obligations of the subjects, conditions and features of such a process. As for Canada, of course, the country's experience is much greater, but it is important that it is characterised by high efficiency. Therefore, it is advisable to formulate recommendations for the process of implementing the land market in Ukraine, through the prism of differences between the laws of these two countries [32].

First of all, it is necessary to eliminate the moratorium on the sale of agricultural land, in particular the sale at open auctions, so that this process was transparent and did not contribute to the formation of monopolies. In addition, the land market can be a stimulus for small and medium-sized farms, as Canada has the legal capacity to lend land and equipment for its operations, both through commercial banks and through Farm Credit Canada. Therefore, if the agricultural land market did not function, such loans would be impossible.

Moreover, further capital is attracted to the agricultural sector through specialised funds that buy land and lease it to farmers. Another distinctive feature of Canadian law is that the agricultural land market is characterised by liquidity that can be provided to farmers. That is, for farmers who decide to stop farming, the agricultural land market allows them to get the value of the land. This phenomenon is especially valuable after retirement, when a farmer can use the value of land to secure a fixed amount of capital, either through the sale of land or through the flow of income from its lease [33].

Conclusions

It should be noted that in the course of a comparative legal analysis of the regulation of the process of land

use, a number of features inherent in the legislation of Ukraine and Canada were identified. The paper identified theoretical concepts such as land use and land relations. The main features of such social relations were identified, including a number of regulations that constitute land legislation. A common object for comparison was land reform, particularly in the context of land market implementation. To carry out the analysis, both the historical development of such an institution in both countries and the practical principles of its implementation in them were studied. With regard to Ukrainian legislation, the Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine Concerning the Circulation of Agricultural Land", which entered into force on July 1, 2021, was considered to a greater extent. This is conditioned upon the fact that this is the first and only currently legal act governing the above institution.

If we talk about Canada, it still has a large number of legal acts that constitute legislation governing the land market. Of course, this is explained by the duration of its existence in this country, in addition, it differs from Ukraine in government, as it is a federation, each province has almost the same number of rights and autonomy, which is not typical for administrative-territorial units in our country. In addition, a notable difference is the lack of a moratorium on the sale of agricultural land in Canada.

In future studies, it is advisable to compare the sanctions provided for violations of established norms on the market of agricultural land, enshrined in the laws of Ukraine and Canada. This direction is extremely relevant and important for modern legal doctrine and society in general, especially in the context of dynamic implementation of land reform.

References

- [1] Zigriy, O. (2019). Legislative support of the formation process and functioning of the land market in Ukraine. *Actual Problems of Jurisprudence*, 2(18), 117-121.
- [2] Krivoguz, M.I. (2020). Agriculture of Ukraine and the land market. *Russia and the New States of Eurasia*, 1(46), 23-38.
- [3] Law of Ukraine No. 254k/96-VR. "Constitution of Ukraine". (1996, June). Retrieved from <https://zakon.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80#Text>.
- [4] Law of Ukraine No. 2768 "Land Code of Ukraine". (2001, October). Retrieved from <https://zakon.rada.gov.ua/laws/show/2768-14#Text>.
- [5] Law of Ukraine No. 962-IV "On Land Protection". (2003, June). Retrieved from <https://zakon.rada.gov.ua/laws/show/962-15#Text>.
- [6] Law of Ukraine No. 963-IV "On State Control Over Land Use and Protection". (2003, June). Retrieved from <https://zakon.rada.gov.ua/laws/show/963-15#Text>.
- [7] Law of Ukraine No. 2697-VIII "On Basic Principles (Strategy) of the State Environmental Policy of Ukraine Until 2030". (2019, February). Retrieved from <https://zakon.rada.gov.ua/laws/show/2697-19#Text>.
- [8] Law of Ukraine No. 552-IX "On Amendments to Some Legislative Acts of Ukraine on the Conditions of Circulation of Agricultural Land". (2020, March). Retrieved from <https://zakon.rada.gov.ua/laws/show/552-20#Text>.
- [9] Ulitskaya, N.Yu., & Akimova, M.S. (2019). Analysis of the market for land plots with encumbrances as an indicator of the availability of land for consumers. *Business Strategies*, 2(58), 22-29.

- [10] Kuziev, K.F. (2021). Regional aspects of land relationship development of non-agricultural purpose. *Russia: Development Trends and Prospects*, 16(1), 1014-1016.
- [11] Bocharnikova, A.V. (2020). Protected areas and indigenous peoples: Approaches to conflicts solving in British Columbia (Canada) and Primorskiy Region (Russia) compared. *Biosphere*, 12(2), 45-52.
- [12] The concept of land relations in Ukraine. Types of land relations in Ukraine. Features of land relations in Ukraine. (2020). Retrieved from <https://yagotyn-rda.gov.ua/news/1595513413/>.
- [13] Papaskiri, T.V., & Suleimanova, A.V. (2019). Modern approaches and directions of land market development in cities. *Moscow Economic Journal*, 11, 74-80.
- [14] Skripnik, A.V., Tkachuk, V.A., Andryushchenko, V.N., & Bukin, E.K. (2019). Achieving equilibrium in the potential land market of Ukraine in conditions of macroeconomic instability. *Economy of the Agro-Industrial Complex*, 2(292), 19-31.
- [15] Law of Ukraine No. 1423-IX "On Amendments to Certain Legislative Acts of Ukraine Concerning the Improvement of the System of Management and Deregulation in the Sphere of Land Relations". (2021, April). Retrieved from <https://zakon.rada.gov.ua/laws/show/1423-20#Text>.
- [16] Law of Ukraine No. 1694-IV "On Amendments to Certain Legislative Acts of Ukraine Concerning the Provision of Land Plots to Cultural, Educational and Health Care Workers Living in Rural Areas". (2004, April). Retrieved from <https://zakon.rada.gov.ua/laws/show/1694-15#Text>.
- [17] Law of Ukraine No. 5245-VI "On Amendments to Certain Legislative Acts of Ukraine Concerning the Demarcation of State and Communal Lands". (2012). Retrieved from <https://zakon.rada.gov.ua/laws/show/5245-17#Text>.
- [18] Law of Ukraine No. 1066-VI "On Amendments to Certain Legislative Acts of Ukraine Concerning Documents Certifying the Right to a Land Plot, as Well as the Procedure for Division and Association of Land Plots". (2009, March). Retrieved from <https://zakon.rada.gov.ua/laws/show/1066-17#Text>.
- [19] Law of Ukraine No. 1378-IV "On Land Valuation". (2003, December). Retrieved from <https://zakon.rada.gov.ua/laws/show/1378-15#Text>.
- [20] Law of Ukraine No. 161-XIV "On Land Lease". (1998, October). Retrieved from <https://zakon.rada.gov.ua/laws/show/161-14#Text>.
- [21] Draft Law of Ukraine "On Moratorium on Expropriation of Agricultural Lands". (2016, December). Retrieved from <https://ips.ligazakon.net/document/JH48400A>.
- [22] Draft Law "On the Land Market". (2011, December). Retrieved from http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=41981.
- [23] Kushnir, S., & Zhuravlyova, A. (2020). Investment in the agricultural industry of Ukraine: Realities and prospects in connection with the opening of the land market. *Education and Science*, 12, 63-68.
- [24] Land reform in Ukraine. The end and the beginning again. (2021). Retrieved from <https://yur-gazeta.com/publications/practice/zemelne-agrarne-pravo/zemelna-reforma-v-ukrayini-kinec-i-znovu-pochatok.html>.
- [25] Arzamastseva, N.V. (2021). Unused agricultural lands: problem and prospects. *Economy and Entrepreneurship*, 1(126), 572-575.
- [26] Law on gratuitous issuance of land. (1930). Retrieved from <https://www.thecanadianencyclopedia.ca/en/article/dominion-lands-policy>.
- [27] Fedyunina, E.N., & Oganessian, L.O. (2019). Research of the land property rights market in the aspect of institutional theory. *Bulletin of Volgograd State University*, 21(4), 44-54.
- [28] Honak, I.M. (2020). Reforming the land market in Ukraine: Financial and economic, social and political aspects. *Innovative Economy*, 2(1), 51-58.
- [29] How much is land in Australia, Canada and the United States. (2019). Retrieved from https://land-ukraine.com/land_prices/skilky-koshtuye-zemlya-v-avstraliyi-kanadi-ta-ssha/.
- [30] Muzyka, P.M., Urba, S.I., & Goncharenko, L.V. (2019). Analysis of the state and efficiency of use of land resources in Ukraine. *Scientific Notes of TNU named after V.I. Vernadsky*, 4, 45-53.
- [31] How the land market works in Canada, USA, UK, Australia and the European Union. How much is a hectare of agricultural land in these countries. (2019). Retrieved from <https://operkor.wordpress.com/2019/08/19/как-работает-рынок-земли-в-канаде-сша/>.
- [32] Radchevsky, N.M., & Zaitseva, Ya.V. (2019). Foreign experience in the development of the land market. *Economy and Entrepreneurship*, 11(112), 1079-1081.
- [33] Canadian facts about selling agricultural land. (2019). Retrieved from <https://www.epravda.com.ua/rus/columns/2019/11/12/653595/>.

Правові засади використання земель в Україні та Канаді: порівняльно-правовий аспект

Богдана Леонідівна Ковач¹, Маргарет Бернар²

¹Національний юридичний університет імені Ярослава Мудрого
61024, вул. Пушкінська, 77, м. Харків, Україна

²Університет Макгілла
H3A 0G4, Rue Sherbrooke O, 845, м. Монреаль, Канада

Анотація

Питання щодо використання земель відіграє важливу роль у формуванні економіки України. Через це, вивчення ринку обігу землі сільськогосподарського призначення, є досить пріоритетним й актуальним для правової доктрини, оскільки дана проблема безпосередньо дотикається до національної безпеки держави, через те, що передбачає здійснення контролю за ризиками, що можуть виникнути у зв'язку з високою концентрацією площ сільськогосподарських угідь у власності однієї особи, неконтрольованого придбання землі іноземцями, а також часткової монополізація окремих сегментів аграрного ринку. Метою даної роботи є здійснення порівняльно-правового аналізу законодавства України й Канади, у галузі використання земель, виокремлення у них спільних й відмінних рис. Для досягнення даної мети, у статті було використано декілька методологічних підходів й методів для наукових досліджень, зокрема функціональний й теоретичний підходи, а також метод логічного аналізу, методу синтезу, формально-юридичного методу, методу порівняльного аналізу, методу аналізу наукової літератури. Після проведення дослідження, було отримано теоретичні й практичні засади даного питання. До перших варто віднести аналіз нормативних баз України й Канади, а до других аналіз безпосередніх методів й підходів, що використовуються у даних країнах під час використання земель. На основі отриманих результатів було сформовано відмінності між правовими засадами реалізації вищенаведеного процесу і розкрито позитивні аспекти, які було б доцільно втілити в майбутній нормотворчій діяльності у цій галузі українського законодавства. В подальших роботах необхідно визначити перспективність методів, на яких базується поточна земельна політика обох країн та визначити шляхи для підвищення її ефективності. Що стосується практичної цінності роботи, то вона безумовно полягає у тому, що в ній розкриті головні теоретичні аспекти, що пов'язані з впровадженням земельної реформи в Україні, а від так дозволяють полегшити тлумачення окремих норм, як для пересічних громадян, так і державних службовців

Ключові слова: сільськогосподарські угіддя, земельна реформа, законодавство, ринок землі, земельна політика
