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The principle of environmentalization in agrarian law

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The article considers the importance of ecologization of modern agricultural production in the context of increasing use of toxic substances of chemical or biological origin, which requires directing modern agricultural production towards ecologization of artificial and natural production factors, making these issues of extreme relevance. The author presents the conceptual and categorical transformation of the environmental aspects of agriculture, which alternately took the form of a principle of agrarian law, first as the principle of greening of labour activity in agriculture, then as the principle of greening of agriculture, the environmental orientation of entrepreneurship in the agricultural sector, and even later as the principle of greening of agriculture, and finally as the principle of greening of agrarian legislation. The author also presents other variants of the author's positions, among which the author considers the ecologization of agrarian law or the principles of agrarian law themselves, as well as

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the State agricultural policy. Proceeding from the general legal nature of the principles, the implementation of which requires embodiment in the regulatory provisions of legislation, the author substantiates the priority of formulating the principle of ecologization of agrarian legislation. At the same time, the author provides examples of greening of the content of statutory agrarian laws, as well as non-greened statutory laws, which indicates that the principle under consideration is incompletely implemented in agrarian legislation. The author analyses the array of functional agrarian laws in certain areas of activity, which in terms of quantitative measurement and scope of coverage prevail over the greening of status laws

Keywords: principle, ecologization, agrarian law, ecologization of agrarian legislation

Introduction

Modern agricultural production is not possible without the use of a wide range of toxic substances of chemical or biological origin, which are contained in mineral fertilizers, plant protection and animal care products, industrial waste, etc. If ingested through food, these substances can cause serious mass poisoning, allergic and chronic diseases. Another danger is the release of chemicals into the environment – soil, water, air, subsoil, plants and animals. The problem of uncontrolled mutations of plants and animals when genetically modified organisms are released into the environment is also poorly understood, but no less dangerous. All of this requires that modern agricultural production be directed towards the greening of artificial and natural production factors, making these issues of utmost urgency.

For the first time, the environmental aspect was embodied in agrarian law as the principle of greening labour activity in agriculture [1]. Later, this principle was transformed by B.O. Voronin [2] into the principle of ecologization of agriculture, the ecological orientation of entrepreneurship

in the agricultural sector. This principle was included in the national agrarian and legal doctrine under the name of agricultural ecologization [3] and was accepted by the scientific community [4]. However, based on the dynamism of scientific knowledge, ideas about the objects of knowledge are constantly changing under the influence of the criteria of objectivity, which, in turn, are also not constant due to the dialectical relativity of even absolute truth.

Hence, the purpose of the article is to clarify the substantive characteristics of the peculiarities of the impact of environmentalization on the formulation of the relevant principle of agrarian law.

Results and Discussion

The following is the principle of environmentalization of agricultural legislation, which is an agrarian law projection of the natural law principle of everyone's inalienable right to a healthy environment. At the same time, it should be noted that greening is now gaining not only intersectoral [5] but also interdisciplinary significance [6]. However, the

inter-sectoral level does not cover the insurmountable specifics of agriculture and the relevant agricultural legislation, which is why this principle is definitely sectoral.

The modern agrarian law doctrine is dominated by two main visions of the principle of ecologization: of agricultural production [4; 7] and of agrarian legislation [8]. However, at the level of individual publications, the greening of agrarian law [9] or the principles of agrarian law themselves [10], as well as the state agrarian policy [11] are considered in parallel as options. As for the greening of agricultural production and agrarian legislation, despite the external difference between these formulations, they are closely related, expressing different vectors of greening and levels of initial application. In the first case, agricultural production itself is being greened with the determination of further changes in agricultural legislation. This direction is illustrated by the conclusion of B.O. Voronin [2], who singled out as a principle the greening of agriculture and the environmental orientation of entrepreneurship in the agricultural sector, the latter of which should be a red thread in the development of modern agricultural legislation. On the other hand, there is the direct greening of agrarian legislation, which means the penetration of environmental requirements into institutions, sub-institutions, norms and legal acts containing them, the placement of environmental norms in other branches of law, in particular agrarian law, as the closest to nature management, which has been one of the first to be greened for many decades [8]. Here, we can see a different direction and initial object of greening. First, agrarian legislation is greened, which

then has a reverse effect on the relations of agricultural production. What is noteworthy here is that representatives of agrarian law prefer to formulate the principle of greening agricultural production, while environmental law prefers to green agricultural legislation. It is difficult to determine which direction is more effective, because despite the overwhelming tendency of legal norms to follow emerging social relations, one cannot deny the existence of a stimulating influence of legal norms on the emergence of new relations. However, based on the legal nature of the principles, the implementation of which requires embodiment in the normative provisions of legislation, it is more appropriate to formulate the principle of environmentalization of agricultural legislation.

In the absence of a codified act of agrarian legislation, the latter's environmentalization is implemented in the context of separate regulatory legal acts, in particular, status and differentiated laws. As for status laws, environmentalization provisions are contained directly in the norms that define the obligations of agricultural entities. For example, these are the provisions of Art. 15 of the Law of Ukraine "On Farming" [12], according to which the latter and its members must:

- comply with the requirements of environmental legislation;
- prevent soil fertility decline and preserve other useful properties of the land;
- provide the relevant executive authorities and local governments with data on the condition and use of land and other natural resources;
- comply with sanitary, environmental and other requirements for the quality of products.

Similarly, according to Art. 7 of the Law of Ukraine “On Personal Peasant Farming” [13], members of a private farm have:

- comply with the requirements of environmental legislation;
- increase soil fertility and preserve other useful properties of the land;
- comply with restrictions related to the establishment of security zones;
- comply with applicable product quality, environmental and other requirements in accordance with the law.

Article 12 of the Law of Ukraine “On Collective Agricultural Enterprises” [14] obliges members of a CAE to:

- efficiently use land in accordance with the on-farm land management project, increase soil fertility, apply environmental protection technologies, and prevent deterioration of the environmental situation on the territory as a result of their business activities;
- to implement a set of measures to protect land provided for by the land legislation;
- maintain erosion control structures, irrigation, and drainage systems;
- comply with the regime of sanitary zones and specially protected areas;
- take measures to prevent the possibility of rain and wastewater runoff, penetration of pesticides and mineral fertilizers on the adjacent land plot.

These are convincing examples of the greening of status agrarian laws. However, not all of these laws are “greened”. For example, agricultural cooperative legislation does not contain any environmental provisions.

This applies to both the original version of the Law of Ukraine “On Agricultural Cooperation” [15-17] and its subsequent versions.

Manifestations of the environmentalization of functional laws in the areas of activity are the provisions of Articles 14-26 of the Law of Ukraine “On Basic Principles and Requirements for Organic Production, Circulation and Labelling of Organic Products” [18], which regulate the requirements for organic production, Articles 12-13 of the Law of Ukraine “On Pesticides and Agrochemicals” [19], which determine the procedure and specifics of the use of pesticides and agrochemicals, Articles 6, 9 of the Law of Ukraine “On Milk and Dairy Products” [20], which set requirements for the safety and quality of milk and raw milk

Conclusions

The modern agrarian legal doctrine is dominated by two main visions of the principle of ecologization: agricultural production and agricultural legislation. The first direction of application of ecologization reflects to a greater extent economic and technological aspects. Therefore, based on the legal nature of the principles, the implementation of which requires embodiment in the normative provisions of legislation, it is more appropriate to formulate the principle of environmentalization of agricultural legislation. At the same time, this conclusion corresponds to the current state of development of agrarian relations, which does not exclude further scientific research in this area.

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Принцип екологізації в аграрному праві

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Анотація

Розглянуто важливість екологізації сучасного сільськогосподарського виробництва в умовах зростання рівня застосування токсичних речовин хімічного чи біологічного походження, що вимагає спрямування сучасного аграрного виробництва у напрямі екологізації штучних і природних виробничих факторів, надаючи цим питанням надзвичайної актуальності. Наведено понятійно-категорійну трансформацію екологічних аспектів сільського господарства, які почергово набули форми принципу аграрного права спочатку як принципу екологізації трудової діяльності в сільському господарстві, далі – принципу екологізації сільського господарства, екологічної спрямованості підприємництва в аграрній сфері, ще пізніше – екологізації сільського господарства і, нарешті, набув формулювання принципу екологізації аграрного законодавства. Викладено й інші варіанти авторських позицій, серед яких розглядається екологізація аграрного права або безпосередньо самих принципів аграрного права, а також державної аграрної політики. Виходячи із загальноправової природи принципів, реалізація яких потребує втілення саме в нормативні приписи законодавства, обґрунтовано пріоритет формулювання принципу екологізації аграрного законодавства. При цьому наведено приклади екологізації змісту статусних аграрних законів, а також не «екологізованих» статусних законів, що свідчить про неповне втілення розглядуваного принципу у аграрне законодавство. Проаналізовано масив функціональних аграрних законів за окремими напрямками діяльності, які в кількісному вимірі та за обсягом охоплення переважають екологізацію статусних законів

Ключові слова: принцип, екологізація, аграрне право, екологізація аграрного законодавства
