Law. Human. Environment

Journal homepage: https://environmentalscience.com.ua/en
Law. Human. Environment, 12(3), 91-97

UDC 349.42
DOI: 10.31548/law2021.03.11

General characteristics of internal and external agrarian financial legal relations

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Article's History:

Received: 6.06.21
Revised: 15.07.21
Accepted: 20.08.21

Abstract

The article is devoted to singling out the specific features of internal and external agrarian financial legal relations. It is proved that the features of the first group of legal relations are due to the organizational and legal form of business entities in which they arise, change and terminate. These features are established in the legislation that regulates the legal status of these entities. In particular, it determines the procedure for the formation of property funds of agricultural enterprises, the distribution of financial result (profit) among the founders and participants (members) (for example, the payment of dividends (in business entities), dividends and patronage dividends (in agricultural cooperatives), as well as making a deductions in these funds. At the same time, internal documents are adopted in such enterprises, on the basis of which such distribution is made. In addition, the procedure for exercising control over their financial and economic activities is regulated. The procedure for making settlements with members (participants) is also specific in the case of termination of the business entity's activity or withdrawal of its members (participants). The opinion is

Suggested Citation:
Mazii, V. (2021). Land sub-category as an important element of the conceptual apparatus of the land law science. *Law. Human. Environment*, 12(3), 91-97.

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substantiated that the peculiarities of external agrarian financial legal relations are caused by the nature of activity carried out by the business entity. Therefore, these relations are regulated by agrarian legislation in the field of state financial support for agriculture and the social sphere of the village; implementation of certain types of agricultural activities; insurance and crediting of agricultural producers. According to the author's opinion, such legal relations include: the settlement legal relations; credit legal relations (including legal relations of monetary leasing); insurance legal relations; relations with the state and local budgets (regarding the payment of taxes and other obligatory payments and fees; obtaining the state financial support); investment legal relations

Keywords: agrarian legislation, agrarian financial legal relations, internal financial legal relations, external financial legal relations, agricultural enterprise, agricultural producer

Introduction

The agrarian sector of the economy (the agriculture is its basic component) forms the following types of security: food security, within certain limits – economic, environmental and energy security; it ensures the development of technologically related sectors of national economy and the creation of socio-economic conditions for rural development. It generates about 18% of the gross value added of the state, it is one of the main budget-forming sectors of the national economy; in recent years, its share in the consolidated budget of Ukraine is an average of 12%, but in the commodity structure of exports – more than a third (Concept of the State Target Program for the Development of the Agricultural Sector of economy for the period up to 2022, approved by the Cabinet of Ministers dated December 30, 2015, № 1437-r.) At the same time, the agricultural production remains a resource-intensive one, it has a significant duration of the production cycle and dependence on natural and climatic conditions. Accordingly, to ensure further economic growth of agricultural producers, it becomes especially relevant to study the issue of legal regulation of the financial support of their current activities. The above-mentioned is impossible without understanding the peculiarities of functioning of the agrarian financial legal relations: both internal, arising at the level of business entities, and external – that mediate their interaction with counterparties and relevant state authorities.

The works of the following well-known scientists in the field of agrarian law became a theoretical basis of the study: V.M. Ermolenko, A.M. Stativka and V.Yu. Urkevich [1], V.Z. Yanchuk [2], O.M. Pashchenko [3].

The purpose of the article is to describe the general characteristics of internal and external agrarian financial legal relations and highlight their specific features.

Results and Discussion

In the agrarian legal science, the agrarian legal relations are traditionally divided into internal and external ones. For the agrarian financial legal relations, the specified division is also applied [2; 3]. At the same time, according to A.M. Pashchenko [3], the first group includes the financial legal relations to ensure the financial discipline established by the law (implementation of various forms of accounting, reporting, accrual of dividends on shares or property and land shares) at enterprises. According to the author's opinion, this approach to understanding the indicated group of legal relations requires some clarification. After all, compliance with financial discipline is associated with the fulfillment of financial obligations to other external entities (credit institutions, counterparties, etc.). That is, these legal relations cannot be considered as internal ones.

According to V.Z. Yanchuk [2], the purpose of internal financial legal relations is to create the necessary financial base for production of food, foodstuff and raw materials of plant and animal origin by structural production divisions. Accordingly, they should be linked, firstly, with the formation of financial capital of enterprise (the creation of property funds of business entities). Thus, in order to ensure the statutory activities, an agricultural cooperative forms an authorized capital (in the manner prescribed by the charter), as well as a development fund and a reserve fund (point 1, Article 21 of the Law of Ukraine dated July 21, 2020 "On agricultural cooperation"); limited liability company – authorized and reserve capital (Article 12; point 1 Article 25 of the Law of Ukraine dated February 6, 2018 "On Limited and Additional Liability Companies"); farming – a compound capital (Article 19 of the Law of Ukraine dated June 19, 2003 "On Farming").

Secondly, the above-mentioned legal relations are related to the internal distribution of the financial result (profit) of enterprise among its founders and participants (members) (for example, the payment of dividends (in business companies), dividends and patronage dividends (in agricultural cooperatives), as well as the implementation of deductions in these funds. At the same time, such enterprises adopt internal documents, and the distribution is carried out based on them. Thus, the financial plan is the main planning document of a state commercial enterprise, and according to this financial plan, the enterprise receives income and incurs expenses, determines the volume and direction of funds for performing its functions throughout the year in accordance with the constituent documents (point 2 of the Article 75 of CCU). In the agricultural cooperative – these are the Rules for on-farm activities. They should contain, in particular, the following information: the procedure for determining the size of additional contribution of each member of the cooperative and its contribution; the size of the total share of contributions of associate members in the authorized capital; the procedure for determining the size, accrual and distribution of patronage dividends in the context of types of activities of the cooperative; a mechanism for distributing the financial result (profit) of agricultural cooperative, remaining after the payment of taxes, fees and other mandatory payments provided for by the law; requirements for pricing and financial relations (point 2, Article 9 of the Law of Ukraine "On Agricultural Cooperation").

It should be noted that the legislation establishes a requirement for approval of the annual report (exclusive competence of the general fees) (point 1, Article 33 of the Law of Ukraine dated September 17, 2008 “On joint-stock companies”, point 2 of the Article 30 of the Law of Ukraine “On Companies with Limited and Additional Liability”, point 2 of the Article 16 of the Law of Ukraine “On Agricultural Cooperation”) and storage of the annual financial statements at enterprises (point 1, Article 77 of the Law of Ukraine “On Joint-Stock Companies”, point 1, Article 43 of the Law of Ukraine “On Limited and Additional Liability Companies”). In addition, the shareholders (participants) are guaranteed the right to get acquainted with the financial statements (Article 78 of the Law of Ukraine “On Joint Stock Companies”, point 3 of the Article 43 of the Law of Ukraine “On Limited and Additional Liability Companies”).

To control the financial and economic activities of these business entities, the appropriate authorities should be created: an audit commission (auditor) in agricultural cooperatives (Article 18 of the Law of Ukraine “On Agricultural Cooperation”) and joint stock companies (Article 73 of the Law of Ukraine “On Joint Stock Companies”). In addition, it provides for an audit of financial statements for limited liability companies (Article 41 of the Law of Ukraine “On Limited and Additional Liability Companies”), agricultural holding companies (Article 8 of the Law of Ukraine “On Holding Companies in Ukraine”), state unitary agricultural enterprises (point 8, Article 73 of CCU), as well as a public joint-stock company (point 1, Article 75 of the Law of Ukraine “On Joint Stock Companies”).

Thirdly, the internal agrarian financial legal relations operate when making settlements with members (participants) in case of termination of the activity of business entity or withdrawal of its members (participants) (Articles 25-25, Article 89 of the Law of Ukraine “On Joint Stock” Companies”, Article 23, points 4, 5 Article 33 of the Law of Ukraine “On Agricultural Cooperation”, point 1 of the Article 5, Articles 53, 54 of the Law of Ukraine “On Limited and Additional Liability Companies”, point 2 of the Article 36 of the Law of Ukraine “On Farming”).

The above-mentioned proves that the features of this group of legal relations are due to the organizational and legal form of business entities in which they arise, change and terminate, and therefore they are established in the legislation governing the legal status of these entities.

Let’s focus on the analysis of agrarian legal relations, which can be attributed to external financial legal relations. It is stated in the scientific literature that the goal of the latter ones is to assist the agricultural producers (through the provision of loans, crop insurance, etc.) in their statutory activities, as well as in the sale of their products (products, raw materials, including after their processing) in accordance with the requirements of a modern market economy [2]. In fact, this is about the relationship of state financial support for business entities in the agricultural sector of the economy. Indeed, most representatives of agrarian legal science note that external agrarian legal relations include relations in the field of state support for agricultural producers, and primarily in the form of financial support and assistance to the village [1; 4].

Such support is carried out in certain legal forms (budget financing, dating or payment of compensations, concessional lending, competitive distribution of resources, conclusion of pledge agreements, insurance of agricultural crops, commodity credit, financial lease (leasing), etc.) [4; 5]. Although, according to V.Yu. Urkevich [6], among the varieties of external agrarian legal relations (when they are defined depending on the content), it is not worth singlig out relations in the field of state support for agriculture, since they are included in the group of relations on state regulation of agriculture. According to the author's opinion, it is worth supporting H.A. Grigoriev [7], who has substantiated in detail the need to distinguish between these concepts. In addition, tax relations should also be attributed to external agrarian financial relations [1; 2; 4].

In addition, A.M. Pashchenko [3] states that this group of relations includes the relations of agricultural enterprises with the financial authorities of state, as well as relations in which the enterprise is the founder of new business entities; relations associated with the implementation of settlement, credit and cash operations of such enterprises.

It should be pointed out that the subjects of external financial legal relations include not only the financial authorities of state (first of all, this concerns tax legal relations), but also other authorities of state executive power and local self-government (in particular, when it comes to legal relations of state financial support), as well as others business entities and financial-credit institutions. Thus, the group of external agrarian financial legal relations consists of the following: settlement legal relations; credit legal relations (including the legal relations of financial leasing); insurance legal relationship; relations with the state and local budgets (on the payment of taxes and other obligatory payments and fees; obtaining the state financial support); investment legal relations. It should be noted that not all of the above-listed relations are regulated by the agricultural legislation. This primarily concerns settlement, tax and investment relations. Although, the tax legislation contains norms that establish a separate procedure for taxation of agricultural producers – payers of the 4th group of the unified tax. However, the peculiarities in the legal regulation of the vast majority of them are provided for by the agricultural legislation. These are the normative-legal acts that regulate the legal status of business entities in the agrarian sector of the economy: the Laws of Ukraine "On farming", "On agricultural cooperation", dated May 15, 2003, "On private peasant farming", dated June 25, 2009, "On wholesale markets for agricultural products". This is also the legislation that establishes the basic principles of state financial support for agricultural production and the social sphere of village (framework Laws of Ukraine "On State Support for the Agriculture of Ukraine" dated June 24, 2004, and "On priority of social development of rural areas and agro-industrial complex in the national economy" dated October 17, 1990). Special legislation also regulates the issues of preferential insurance and lending in agriculture (Laws of Ukraine dated February 9, 2021 "On the peculiarities of insurance, agricultural products with state support", dated November 6, 2012 "On agricultural receipts"). It is possible to single out a separate group of normative-legal acts regarding the state financial support of certain types of agricultural activity (for example, the Laws of Ukraine dated July 4, 2002 "On grain and the grain market in Ukraine", dated July 10, 2018 "On basic principles and requirements to organic production, circulation and labeling of organic products", dated September 18, 2012. "About aquaculture"). Therefore, the peculiarities of external agrarian financial legal relations are determined not only and not so much by the legal status of the economic entity, but as a rule, by the nature of activity it carries out, and they are established in the agrarian legislation.

Conclusions

Thus, the internal agrarian financial legal relations include: the legal relations for the formation of financial capital of enterprise (creation of appropriate property funds of the business entities); the legal relations on the internal distribution of financial result (profit) of the enterprise among its founders and participants (members) (for example, the payment of dividends (in business companies), dividends and patronage dividends (in agricultural cooperatives), as well as the implementation of deductions to these funds; legal relations for settlements with members (participants) in case of termination of the activity of business entity or withdrawal of its members (participants). The group of external agrarian financial legal relations consists of the following: the settlement legal relations; credit legal relations (including legal relations of financial leasing); insurance relationship; relations with the state and local budgets (on the payment of taxes and other obligatory payments and fees; obtaining the state financial support); investment legal relations.

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Загальна характеристика внутрішніх і зовнішніх аграрних фінансових правовідносин

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Анотація

Статтю присвячено виокремленню специфічних ознак внутрішніх і зовнішніх аграрних фінансових правовідносин. Доводиться, що особливості першої групи правовідносин обумовленні організаційно-правовою формою суб'єктів господарювання, в яких вони виникають, змінюються і припиняються. Вказані особливості встановлюються у законодавстві, що регулює правове становище цих суб'єктів. Зокрема, ним визначається порядок формування майнових фондів сільськогосподарських підприємств, розподіл фінансового результату (прибутку) серед засновників та учасників (членів) (наприклад, виплата дивідендів (в господарських товариствах), дивідендів та патронажних дивідендів (в сільськогосподарських кооперативах), а також здійсненням відрахувань до зазначених фондів. При цьому в таких підприємствах приймаються внутрішні документи, на підставі яких проводиться такий розподіл. Крім того, регламентується порядок здійснення контролю за їх фінансово-господарською діяльністю. Специфічним є і порядок проведення розрахунків з членами (учасниками) у випадку припинення діяльності суб'єкта господарювання або виходу із його членів (учасників). Обґрунтовується думка, що особливості зовнішніх аграрних фінансових правовідносин викликані, як правило, характером діяльності, яку здійснює суб'єкт господарювання. Тому, вказані відносини регулюються аграрним законодавством у сфері державної фінансової підтримки сільського господарства і соціальної сфери села; здійснення окремих видів сільськогосподарської діяльності; страхування та кредитування сільськогосподарських товаровиробників. До таких правовідносин належать: розрахункові правовідносини; кредитні правовідносини (включаючи правовідносини фінансового лізингу); страхові правовідносини; відносини з державним та місцевими бюджетами (щодо сплати податків та інших обов'язкових платежів і зборів; отримання державної фінансової підтримки); інвестиційні правовідносини

Ключові слова: аграрне законодавство, аграрні фінансові правовідносини, внутрішні фінансові правовідносини, зовнішні фінансові правовідносини, сільськогосподарське підприємство, сільськогосподарський товаровиробник