

DESHADOWING OF LAND MARKET AS A FACTOR OF ENSURING THE NATIONAL SECURITY OF UKRAINE

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Abstract

This article considers problematic aspects of the regulation of the land market in Ukraine. We analyzed factors of shadowing of land relations in Ukraine, connected with imperfection and incompleteness of the regulatory framework, abuse of officials and irregular control of land use by the state. We have proposed areas of legalization of land relations in the context of land reform.

Key words: crimes in the field of the land relations, shadow economy, land administration, land reform, land policy, wilful employment of lot land.

Introduction

Topicality. Ukraine is facing both external and internal problems, which are not resolved and accumulated for over 23 years of independence. The main Ukrainian external security threat is definitely totalitarian intentions of the Putin government, internal threats include oligarch and corruption of the political and economic spheres, opacity of the socio-economic institutions as well as strengthening informal mechanism to reconcile the interests of different groups of the population. If external risks losing Ukraine's national security can be outdone only with the support of the democratic international community, the internal risks should neutralize themselves, consciously and systematically, guided, of course, by the experience of the EU countries.

Fighting corruption has been one of the most pressing social problems for a long time, the solution of which is an extremely important matter for many countries, especially Ukraine. Every third Ukrainian citizen is ready to go out to fight against corruption. This is justified by the results of

a study Global Corruption Barometer from Transparency International and Gallup International Association, in particular: 68% of Ukrainian are ready to protest against corruption; 36% of respondents show willingness to go out to protest; 43% of respondents believe that over the past two years, the level of corruption in Ukraine has grown, 74% – believe that the public sector is corrupt, 80% – describe the actions of the government in the fight against corruption as “not productive” (News.liga, 2013). The desire to fight corruption has been one of the factors of the Ukrainian Maidan.

We shall mention that results of some studies and surveys, which show that some of the most corrupt relationships are those that arise in land use. Land issues for Ukrainians, both historically and mentally, has become paramount and base, so the problem of overcoming shadow land market is relevant for each family. Since Ukraine is the largest country in Europe by land area (after the European part of Russia) and the qualitative composition of soil and biological productivity of land – one of the richest in the world, the national deshadowing of the land market will increase national wealth in the growing world food crisis.

The aim of the article is to determine real state of corruption in land relations and identify gaps in the process of deshadowing of the land market in Ukraine and strengthening national security. Note that among a number of social and economic reforms taking place in Ukraine for more than 23 years, land reform is perhaps the slowest, the most politicized and controversial.

Formation of the land market in Ukraine continues with numerous violations of applicable laws and interests and rights of its subjects. We have to admit rejection of the land reform by Ukrainians. Not much is needed to overcome this – the political will of the new ruling team and curbing corruption in land relations. If the citizens of Ukraine will be convinced that the new government really wants to introduce order, they will provide major public support.

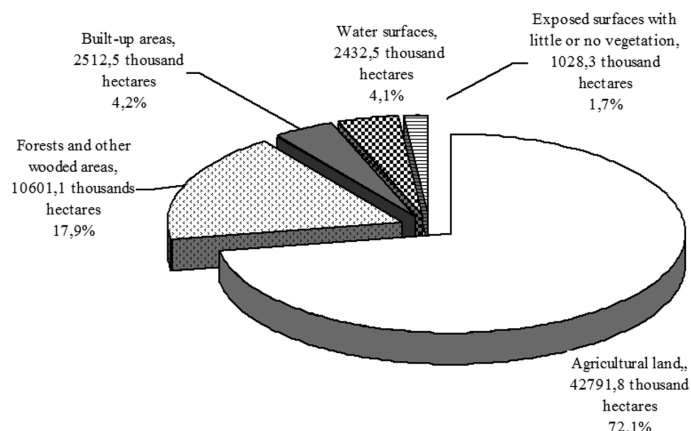
1. Research of the land market development in Ukraine

Land is the main resource of human development with functions provided for by society:

- from the physical point of view – a living and nutrition space;
- from the environmental point of view – reproduction and survival strategy generator of existing biological species;
- from an economic point of view - a resource base on which a public wealth is built;
- law – an abstract set of property rights; social and cultural perspectives – a source of identity and spiritual strength of the nation, its most precious wealth.

Analysis of the land resources structure of Ukraine.

Figure 1. The structure of land fund of Ukraine.



Source: constructed by the author in accordance with the State Agency of Land Resources of Ukraine data (accessed 16 April 2014).

Therefore, significant reserves of agricultural land under the agrarian reforms are a priceless national treasure, that with effective management, can provide a decent standard of living. Paradoxically, under such conditions, Ukraine has one of the lowest quality of life among European countries, most domestic enterprises are not competitive on foreign markets, and one-third of the regions recognized as regions with troubled economies. Therefore, the main objective of market reforms in Ukraine during the years of its existence as an independent state, was the implementation of land reform. Its main principle was to overcome the state monopoly on land ownership and the establishment diversification of land ownership.

Focusing on the successful experience of the Baltic countries, in our opinion, land reform structure shall include: privatization of agricultural organizations' land; free transfer of agricultural land to collective and private ownership and use; the monetary valuation of land; collectively owned enterprises land sharing among members; issuing certificates of the land share ownership to the enterprise members; guarantee the right for member to freely exit collective agricultural enterprises with their land shares in kind, replacement of the certificate with the state act on land ownership; allotment of land owners to dispose land as a commodity and recognition of land as a capital. The means of achieving the aim of land reform are: creating legal preconditions for definition of the landlord – the owner, entrepreneur; as well as determination of the market value of the land; development of the State Land Bank and the formation of land market.

Historical review of land reform in Ukraine suggests three main stages of development of land relations:

- The first stage (adoption of the Land Code of Ukraine and of the resolution “On Land Reform” by the Verkhovna Rada of Ukraine on December 18, 1990) – the transformation of the Soviet land law;
- Second stage (adoption in 1992 of the Law of Ukraine “On the ownership of the land,” and the new version of the Land Code) – mass privatization of land;
- The third phase (adoption on June 28th, 1996 of the new Constitution of Ukraine and detailed elaboration of constitutional provisions on land rights with the new Land Code of Ukraine adopted on October 25th, 2001 and onwards) – implementation of the constitutional guarantees of the right on land ownership.

Incomplete third phase – namely cancelation of the moratorium on sale of agricultural land caused dualism in the land market in Ukraine. On the one hand – it created market fundamentals of a land system, in particular: it abolished the monopoly of land ownership, land became the subject in the property and civil relations, the transition to land multistrukture accomplished, payment for land use was introduced. On the other – these changes have become protracted, not systematic, formal and expensive with significant corruption, illegal dealings with land and raiding and with formation of shadow land relations and informal land market. According to expert estimates, the turnover of the shadow land market is very large - approximately 60% and the level of the shadow economy Ukraine is 52.5%, as calculated by the method of Schneider. Shadow land relations that occur outside the legal economy, adversely affecting the efficient use of natural resources of Ukraine.

2. Analysis of land relations shadowing factors in Ukraine

The main factors of land relations shadowing (that deform and destroy the competition mechanisms, constrain investment activity in agriculture of Ukraine) include:

1. Imperfect procedures of state and municipal land free transfer, rent and sale to individuals and companies. This led to the fact that only 32.4% of the Ukrainian population used their right on land privatization (see Table 1).

Table 1. Proportion of citizens who were able to implement their right to privatize land until 2013.

Region (Oblast)	Population as for 01.01.2013, persons	Citizens who were able to implement their right to privatize land	
		Persons	%
Kyiv	1720668	1043532	60.6
Sumy	1148607	525132	45.7
Vinnitsya	1631450	743613	45.6
Chernihiv	1084306	480615	44.3
Cherkasy	1274296	564719	44.3
Zakarpattia	1251634	545881	43.6
Khmelnyskyy	1317930	572856	43.5
Kirovohrad	999401	430146	43.0
Kherson	1081389	460839	42.6
Crimea	1962403	806716	41.1
Zhytomyr	1270609	518151	40.8
Poltava	1472993	553984	37.6
Ivano-Frankivsk	1380018	518105	37.5
Ternopil	1078884	384028	35.6
Volyn'	1039284	363025	34.9
Mykolaiv	1175730	372092	31.6
Chernivtsi	905025	307618	31.0
Rivne	1154922	319919	27.7
Dnipropetrovsk	3313886	903311	27.3
Odessa	2387456	648821	27.2
Donetsk	4390092	1168013	26.6
Lviv	2538959	668181	26.3
Lugansk	2265037	588564	26.0
Zaporizhya	1787709	441543	24.7
Kharkiv	2734517	663906	24.3
Ukraine	45565909	14752593	32.4

(based on the USAID project)

2. Inadequate institutional support of land market circulation and poor land records system. Thus, as for the available data of the State Agency of Land Resources of Ukraine on 01/01/2013, inventoried settlements land area is 4911.83 thousand hectares, or only 66% of the total area. Inventoried non agricultural land area outside of human settlements is 8101.53 hectares, representing 78% of their total area (10,446.88 hectares). Inventory of the public agricultural land is about only 22 % of the total area (project UNDP data. Access: 4 April 2014).

3. The ban on the sale of agricultural land reduces its value. For example, 40% of the world's black soil is concentrated in Ukraine (27 million

hectares of arable land), 70% of which are owned by low-income pensioners in form of shares, that is why the offer for 1 hectare of Ukrainian land is \$400. While much worse quality land in UK is \$11,400 per 1 hectare, Spain – \$13,300/hectare, Belgium – \$14,200/hectare, Germany – \$19,700/hectare, the Netherlands – \$40,000/hectare. Today the quality of the environment in Ukraine is on the 75th place among 133 countries, land plow in Ukraine is one of the highest in the world (54%), annual losses of humus is about 20 million tons, and the total loss from this process is about \$5 million a year. Efficiency of 1 hectare of Ukrainian land is 5-10 times lower than in the Netherlands, France, Germany or Poland (Martin, 2011). The cause of low land value in Ukraine is that the current owners of the land (share) in their economic status actually transformed into rentiers. Economists are split on the role of the rentier. Thus, Veblen Th.B. believed that the rentier parasites on actual production and Bukharin N.I. in the famous book “The Political Economy of the Rentier” emphasized the role of this group in formation of the credit economy. For the modern Ukraine described phenomenon is rather negative, because it describes the general ineffectiveness of the ownership structure of agricultural land, which was formed during the land reform.

The main reasons for the low cost of agricultural land include the following factors:

- Land relations in the agrarian sector of economy of Ukraine reluctantly acquired rental nature, because the owners of land shares who received their share on the cost-free basis are rarely engaged in agricultural production activities, so 70% are land users of the land under lease. We should note that the lessee usually has no stable economic motivation for conservation and restoration of soil fertility of leased land, because it is not his property, and additional innovations will reduce the profitability of the business and its market capitalization;
- Only 25% of the actual lease agreements as of March 2014 have the land price determining procedure specified and the remaining 75% - has no land price determining procedure specification, so the land price remains on its minimum. Note that only 4% of private land lease agreements include qualitative indicators of agricultural products, and it also reduces the cost of land;
- Lack of the necessary legal knowledge, skills, tools, financial resources for conduction of the individual independent agribusiness;
- The low competitiveness of small farms in comparison with large farms due to lack of innovation;

- Negative profitability of agriculture during the crisis in 1996, 2001, 2004, 2008 and 2013 because of the macroeconomic situation in Ukraine;
- Lack of targeted government support of small agricultural producers, and absence of state control over the land use and pricing.

So, as the world's best practices show, the most important prerequisites for the formation of equitable land market is an instrumental arrangement of such economic processes as: land accounting, land cost, land evaluation, land ownership, taxation of land market transactions, the overall awareness of all land market participants, government regulation of the correspondent processes, economic and environmental security of the country in the context of land market issues.

4. Contradictions and conflicts of interest of state and local governments at various administration levels; rights and duties inconsistency of the sectoral, functional and mixed competence of the executive branch in relation to specific issues of land relations, which lead to the emergence of competence disputes and significant number of delegated authority. According to the Global Corruption Barometer survey by Transparency International and the Gallup International Association 83 % of respondents said that it is important to have a personal touch in dealing with the public sector, and 84% – that the government is influenced by organizations that act in their own interests. As the most corrupt Ukrainians named precisely those institutions that are designed to fight corruption – the courts (66%) , law enforcement (64%), public service (56%), parliament (53%), political parties (45%), business (36 %). Growing distrust to these areas is caused by a sharp rise of bribery. A significant number of respondents declared that they bribed for services provided in law enforcement (49%), land services (25%), registration and licensing services (22%), courts (21%), tax administrations (18%), municipal utilities (6%).

5. The low efficiency and lack of transparency in the budget programs of the land reform implementation.

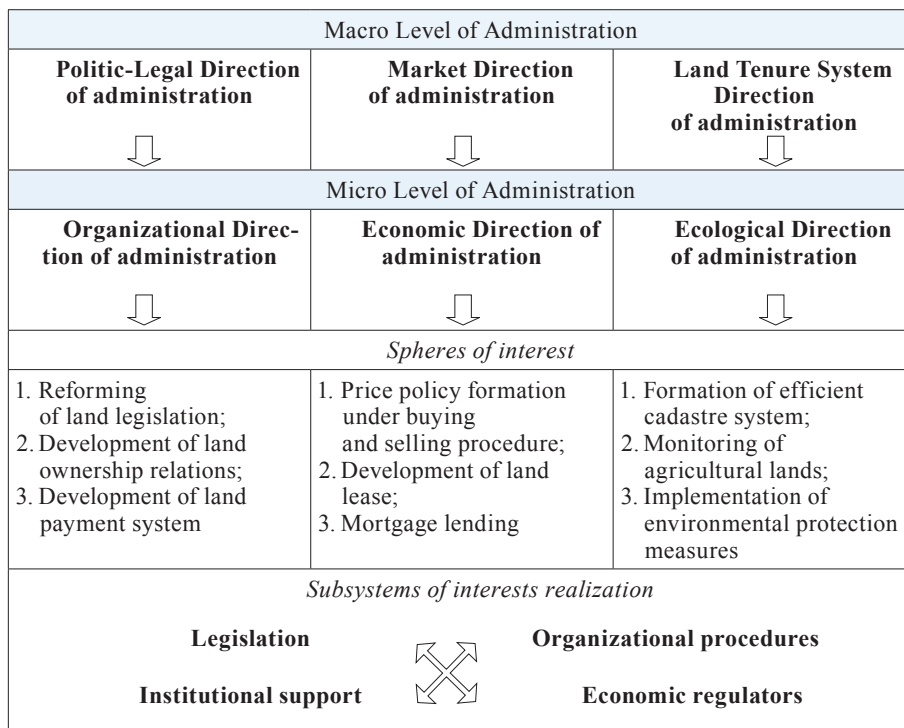
6. Corruption and politicization of public land management. 35% of respondents reported on the cases of bribery, while 53% of them said they refused to pay. Rating of the bribery causes is as follows: inability to get the service by other means (33%), gratitude (33%), to accelerate the process (28%), to reduce the cost of services (6%). 74% do not report corruption cases, 24% are afraid of the consequences, 63% believe that it will not change anything (News.liga, accessed: 14 April 2014).

It shall be summarized that shadow land relations reduces competitiveness of Ukrainian producers, contributes to impoverishment of the peasants,

reduces efficiency of economic potential and thus increases the threat of loss of national security. Therefore, we recommend to bind the effectiveness of land administration functioning to the quality of the interaction of: 1) regulatory framework; 2) economic regulators of land relations, including the legal framework relating economic constraints and incentives; 3) institutional support mechanism for the regulation of land relations and land market development; 4) organizational procedures related to the land transactions.

This interaction is demonstrated in the Figure 2.

Figure 2. Functionality mechanism of State system of land administration



Source: Compiled by author.

Conclusions

Defining the areas of land market deshadowing in Ukraine.

Outlined problems of Ukrainian land market shadowing reflect the state of the national economy and national security. The results of a new Corruption Perceptions Index 2013 (CPI) of Transparency International show the following: the conditions for conducting long-term business in Ukraine have been significantly deteriorated. The basic reasons are corrupt protec-

tionism and fusion of political and business interests. According to this year survey of Corruption Perceptions Index (CPI) the Ukrainian rating of the corruption level has remained practically unchanged – 25 points of 100. Thus, Ukraine was ranked 144 among 177 countries, covered by the survey. Ukraine is confident in the group of “high risk” together with Cameroon, Iran, Nigeria, Central African Republic and Papua New Guinea, but it risks slipping even lower in the next year. State institutions and officials often demand from business to pay bribes, as it is evidenced by the fall of the corresponding rating of Ukraine on 5 points (part of CPI is taken from the data of World Economic Forum Executive Opinion Survey).

Ukrainian and foreign business is ready to sound the alarm, because the basic problems of business community are not only solved but exacerbated. The basic are the following: Business monopolization. Oligarchic clans actively redistribute business resources between themselves and displace transparency and healthy competitiveness from the market; Failure of long-term business planning. In Ukraine the property becomes less secure, the single and unchanging rules of conducting business cease to act for all market participants; Occupation of the business by the state corrupters. The procedures of receiving permits to conduct business is becoming more corrupt and corruption is flourishing in activities of the state authorities and officials, who takes decisions and take control of financial flows.

The following steps are recommended:

1. Prevent the merger of political and business interests. State authorities cannot function as business departments of oligarchic family groups.
2. Cancel the Moratorium on agricultural land sale.
3. Immediately remove the main destructive factors of the legislative management of land relations and to ensure the compliance with the current legislation and immutability of rules of conducting business for all market participants regardless of the place of registration and sphere of activity.
4. Increase efficiency and transparency of budget programs related to the implementation of land reform and funds direction on the state financing of land protection measures.
5. Increase state control over the system efficiency of payment for land; management of land relations and land resources.
6. To prohibit participation of relatives and other persons related to officials in the tenders.
7. Adhere to the principle of priority of agriculture in the long-term state strategy for homeland security guarantee.

Removal of informal land market sources in Ukraine will lead to efficient increase of agricultural production, rational use and protection of land, at the same time improving the quality of life of rural residents, forming the landowner-entrepreneur and growth of national wealth of Ukraine and its security.

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