

Legal Reforms of the Land Market in the Countries of Central and Eastern Europe and the Development of Their Financial and Credit Institutions

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ABSTRACT

The land reform in the countries of Central and Eastern Europe that, in fact, was simultaneously initiated in the late twentieth century in Bulgaria, Romania, Russia, Moldova, Estonia, Latvia, Lithuania, the Czech Republic, Germany, Slovenia, Ukraine and so far hasn't been finished in any of these countries, is a relevant issue not only in terms of a comparative analysis of the land market reforming rate, its transparency, but also from the perspective of the peculiarities of support of such reforms by banking financial institutions, which were being created in these countries on the move of reforms. Land banks, cooperative banks, credit unions had, in fact, become the financial locomotives that led to the reforms of the entire agro-industrial complex in these countries. Lease of land or its possession, the lease price and its area, a reasonable balance between private and public interests – these and other issues have become the subject of this study.

Keywords: Land reform, land market, land bank, credit union, credit financing, subsidizing, land mortgage, agricultural sector of economy, farm enterprises.

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INTRODUCTION

Opening and development of a real land market in the countries of Central and Eastern Europe – Bulgaria, Poland, Moldova, Romania, Russia, Estonia, Latvia, Lithuania, the Czech Republic, Slovenia, Ukraine, etc. – is a complex issue because, on the one hand, it is conditioned by its organizational, technical and financial character and, on the other hand, it is one of the most complicated social problems that cannot be solved by means of adoption of laws, regulations or orders only. These issues require, first and foremost, political will, reasonable internal legal support, powerful specialized financial institutions, ratification of foreign international investment programmes. This is the financial and economic model of the land market reforming and its further development, creation of small and medium-sized farm enterprises, their financial, methodological and organizational support that is professed by the countries of Central and Eastern Europe analyzed in this article. The article emphasizes that the credit and land policy of the countries of Central and Eastern Europe is being formed not only on the basis of purchase and sale of land but, first and foremost, on the basis of its lease, cultivation and processing of agricultural products, purchase of agricultural equipment with adequate guarantees regarding the reasonable utilization of credit resources and their timely repayment on the part of guarantee funds that just as banks affect not only the investment climate but also the national land policy in the sphere of agrobusiness which is one of the key issues in terms of development of a socially oriented market economy where a reasonable balance between private and public interests is the optimal ratio between the self-organization of private industry and its economic efficiency.

The investigation of issues related to the reforms and development of the land market and together with this its multi-source credit financing in order to accelerate the development of the agro-industrial complex was conducted by the following specialists: L. Harvey (the USA, 1974), J. Hopkins (the USA, 1979), N. Kozyrin (England, 1995), D. Porbe (the Netherlands, 1996), Separvati (Indonesia, 2003), V. Vlasov (Poland, 2005), M. Korobeynikov (Russia, 2010), O. Melnyk (Ukraine, 2013), V. Anisimov (Ukraine, 2015), O. Zubrytskyi (Ukraine, the Netherlands, England, 2017), O. Lemishko (Ukraine, 2019).

MAIN TEXT

The methodological basis of the article is both general legal and special methods and techniques of scientific cognition. In particular, the dialectical research method made it possible to conduct a systematic analysis of problematic issues as to the development of the land market in different countries of Central and Eastern Europe and their legislative formation.

The systemic functional method allowed observing the creation of a socially oriented market economy in the field of land market, land legal relations in the sphere of agricultural production and processing of agricultural products in the countries of Central and Eastern Europe.

The logical research method gave an opportunity to study the development process of the land legislation and the land market and to define the subjects of credit financing in the sphere of agricultural production in the countries of Central and Eastern Europe. In the process of analysis of credit and investment policy in different countries of Central and Eastern Europe the comparative legal and statistical methods of scientific research were used. While assessing the historiography of the problem, it is

necessary to recognize the existence of other theoretical and applied research that to some extent contributed to development of the abovementioned issues.

RESULTS

Until the 1990s, the economic system in the countries of Central and Eastern Europe, which also include Ukraine with its immense areas of black soil (chernozem), was based on a totalitarian state policy of the Soviet Union. All the means of production and along with them the land as a natural monopoly belonged exclusively to the state. With the collapse of the Soviet Union and the declaration of independence in 1991 Belarus, Moldova, Estonia, Latvia, Lithuania, as well as Ukraine immediately faced extremely difficult issues not only in the sphere of economy and finances but also related to the development a modern land market.

Since the Russian Federation, according to the Minsk Agreement as of 1991, was declared to be the successor of the USSR [1] and being a successor within a few days it withdrew all cash holdings from the banking system of Ukraine and other independent at that point in time countries, the banking systems of these countries in the absence of their national currencies "fell" into a deep recession. The agriculture, which was based on collective farms (collective agricultural enterprises) that were credited by the state every year, in the absence of national currencies, could no longer be credited, and, therefore, the economy quickly came over to the barter trade.

Attempts to stabilize the crisis through the introduction of temporary currency notes (coupon-karbovanets in Ukraine, Belarusian ruble in Belarus) didn't produce results, as such a "currency" was being diluted by an extremely high level of inflation. Interstate, interregional relations, connections between enterprises that worked according to the system of labour specialization in the Soviet Union were destroyed. In the sphere of agribusiness, the foundation for criminal raiding was being gradually created. All the countries that were parts of the Soviet Union found themselves in such initial positions of economic development of agriculture.

The collapse of the Soviet Union contributed to the collapse of the so-called "socialist camp", which included: Bulgaria, Poland, Hungary, Romania, Slovenia, the Czech Republic, part of Germany, Albania, Yugoslavia, etc. The countries faced a choice: to take a step towards a market economy based on private ownership of the means of production and to carry out a land reform, or to stay at the same socialistic development level that had been being formed in these countries for decades. The countries have chosen a market business pattern and, on that ground, have gained, in fact, equal opportunities regarding reforming their planned economy into a market economy, which is impossible without a land reform as the latter is its basis.

Thus, the countries of Central and Eastern Europe began land reforms almost simultaneously. In Ukraine, such a reform was initiated by the Resolution of the Verkhovna Rada as of December 18, 1990 "On the Land Reform" [2]. In Poland, such a reform was introduced by the Law "On Amendments to the Law on Land Management and Seizure of Agricultural Real Estate" (1990) [3] and "On Management of State Agricultural Lands" (1992). As a result, land reforming in these countries has gained its legal basis.

In 1991, the Bulgarian Law "On the Ownership and Usage of Agricultural Lands" and the Hungarian Law dated by the same year "On the Partial Compensation of the Damage Illegally Inflicted by the State to Property Owners" initiated the land reforms in these countries.

As a result of these reforms, 7 million Ukrainians received more than 10 million hectares of agricultural lands of the former collective farms [4]. The distribution of lands as of 2020 see in the Table 1.

Table 1. Agricultural land: ownership [5]

Category	Hectares (mln)	Proportion of the agricultural lands (%)	Proportion of the plough lands (%)
Agricultural land	41,5	100	-
which includes plough lands	32,5	-	100
State ownership	11,0	26,5	-
which includes plough lands	5,6	-	17,3
Private ownership	30,5	73,5	-
which includes plough lands	26,8	-	82,7

In Ukraine, 38 thousand small and medium-sized farm enterprises were established [6], in Bulgaria, 4.5 million hectares were privatized, and on the basis of the Bulgarian Law as of 1947 "On Labour Land Ownership" some part of the lands was returned to the previous owners [7].

In Romania, after the liquidation of 3700 collective farms in 1991, 14.7 million hectares were withdrawn and privatized in accordance with the Romanian Law "On Land Resources". Some part of the lands was also returned to the previous owners who were deprived of such land allotments during the collectivization period [8].

In Hungary, after the liquidation of agricultural cooperatives in 1992, 1.1 million people, members of cooperatives and their heritors, received land shares on the basis of the Hungarian Law "On the Partial Compensation of the Damage Illegally Inflicted by the State to Property Owners". Here, some part of the lands was also returned to the former owners [7]. Estonia, Lithuania and Latvia followed this path.

The Russian Federation carried out the land reform in the period from 1990 to 2003. At the same time, up to 90% of lands remain in state ownership, although, from the legislative point of view, the land reform is considered to be finished. Belarus, on the other hand, has not carried out any reforms on its territory related to the subdivision of agricultural lands and preserved the collective way of cultivation of the land that is fully state-owned.

Moldova carried out the land reform in the period from 1991 to 1998; it liquidated collective farms and transferred 1.7 million hectares into private ownership by the former collective farm workers, and only 40 thousand hectares are owned currently by the state.

At the same time, there are certain restrictions regarding the sale of land to foreigners with the obligation to get the approval by local registration authorities in Moldova, Russia, Estonia, Poland, Hungary, Latvia. In Ukraine, the sale of land to foreigners will be allowed in case of approval of this provision in a referendum [9].

Thus, in some countries of Central and Eastern Europe the land reform has been declared to be finished, in other countries such a reform is still being carried out. Table 2 presents the distribution of ways of land use by agricultural producers in European countries as of today. If we look at Ukraine in this regard, we'll see that the Land Code adopted on October 25, 2001 imposed in the section X of the "Transitional Provisions" a temporary prohibition on the sale of agricultural lands that came into force from 2002 to 2007 [11]. At the same time, the mechanism of functioning of the land market in Ukraine has not been created, which forced the Verkhovna Rada to prolong such a moratorium on the alienation of agricultural lands over and over again. The last prohibition on the sale of agricultural lands expired only on January 1, 2020 [12]. In fairness, it must be said that Ukraine was not alone in this issue. In 2000, Hungary also introduced a similar moratorium for a period of seven years, which has already expired.

During such moratoria, the land markets both in Ukraine and Hungary developed on a basis of lease relations.

Table 2. Ways of land use by agricultural producers in the countries of the EU, % [10]

Countries	Proportion of the lands	
	that are owned	that are leased
Belgium	31,7	68,3
Denmark	82,7	18,3
Germany	63,6	36,4
Greece	77,1	22,9
Spain	69,8	30,2
France	46,7	53,3
Ireland	96,0	4,0
Italy	80,0	20,0
Luxemburg	51,7	48,3
The Netherlands	64,5	35,5
Portugal	66,3	33,7
The United Kingdom	62,6	37,4
Sweden	55,0	45,0

Criticizing the lease system in the agribusiness, the English scientist and agronomist of the eighteenth century stated: "Transfer the ownership of a desert to the owner, and he will turn it into a beautiful garden, but if you lease him this garden, he will turn it into a rock" [13]. In this regard, J. Liebig [14] and T. Brinkman noted that a lessee is not interested in preservation of soil fertility, as the costs for fertilizers and soil cultivation are not compensated by the increased profits [15]. Thus, there is a contradiction in the agricultural activities between the economy and the ecology, which, unfortunately, is true for all the countries of the world, and only during the last five to ten years people paid attention to this problem, but in terms of safety and health benefit of organic products. And in this context, the countries of Central and Eastern Europe are beginning to occupy one of the leading positions in the world.

On October 6, 1998, the Law "On Land Lease" [16] was adopted in Ukraine, and for ten years 4781.85 thousand

lease agreements of land shares with a total area of 17.17 thousand hectares were concluded, the annual lease payment according to them was UAH 12.49 million. But small farmers account for the total lease area of only 660 thousand hectares [17].

This situation indicates that there have appeared large agricultural companies in Ukraine, such as "Ukrlandfarming", which has 654 thousand hectares of agricultural lands, although the company is registered within the jurisdiction of the Republic of Cyprus, but its ultimate beneficiary is a citizen of Ukraine, Kernel Group with 700 thousand hectares of lands that has become one of the largest latifundists of Europe [18]. Similar processes are taking place in the Russian Federation. Thus, the joint-stock financial corporation "Sistema" owns today more than 260 thousand hectares of agricultural lands [18]. During the expansion, the German company "Clemens Tönnies" gained control over 15 thousand hectares, 4.2 thousand hectares in Serbia, 33.8 thousand hectares in Romania and in Russia [18].

Like in Ukraine, the small and medium-sized farm enterprises in Central and Eastern Europe are weak and unable to compete not only in the market of land purchase and sale, but also in the lease of land shares. Despite the fact that the lease is not a final way to the land reform completion but, according to the statistics, in Estonia 62% of agricultural lands is leased and only 38% of lands is cultivated by their owners. In Germany, the ratio of these indicators is 68% to 32%, in the Czech Republic – 91% to 9%, in Slovakia – 96% to 4% [18].

Thus, in the countries of Central and Eastern Europe there is observed a gradual shake-out of small farm enterprises that are not financially able to withstand big business. Land banks as specialized financial institutions that could credit small agricultural businesses have been established neither in Ukraine, nor in Russia, Bulgaria, Romania or Belarus so far. This fact gave an opportunity, for example, in Romania, for large local agricultural holdings to seize in 2015 8.5% of cultivated lands [19].

At the same time, the Land Code of Ukraine presupposes today the possibility of mortgage credit financing in the sphere of agricultural production, including small and medium-sized farm enterprises [11]. However, despite the fact that this thesis had obtained its legislative consolidation, it hasn't led to real results, as there is no economic and financial centre in Ukraine that would become a powerful driver of the development of the agricultural economy sector taking into account objective laws and principles of the market economy. The Land Bank of Ukraine should have become such a center as, realizing the importance of this issue, the Cabinet of Ministers of Ukraine by its decision No. 609 as of July 2, 2012 provided for the creation of the "State Land Bank", the authorized capital of which is fully state-owned. The authorized capital itself should have amounted to UAH 120 million [20]. Unfortunately, the state has not created such a bank so far despite the fact that the agricultural economy sector generates about 32% of the GDP and provides at that employment opportunities.

In almost all countries, a specialized system of agricultural credit financing was being created in the agricultural economy sector. Thus, in England in Rochlate a credit union was established in 1844. In Germany, such a credit union of cooperatives was established in 1846 [21]. In Holland, there was established a cooperative bank (1896) [22].

In 1916 in the USA, a farmers' credit union for credit financing of farm enterprises was established, which in 1933 incorporated a system of federal land banks [22]. This credit system is still functioning nowadays.

According to the data of the Organization for Economic Co-operation and Development, which includes 29 countries, among them the USA, the countries of the European Union, Australia and Canada, only during the period from 2006 to 2013 the total volume of credit financing in these countries amounted to more than USD 107 trillion. [23]. In particular, in Poland only during the period from 2004 to 2006 farm enterprises were paid surcharges on bank interest, evergreen and investment credits provided by the Agency for Restructuring and Modernization of Agriculture in the amount of EUR 2.4 billion [21].

The unconditional fact is that the lack of a specialized financial institution leads to the stagnation of small and medium-sized farm businesses, and, as already mentioned above, to the formation of large agricultural holdings, which tend to dictate and monopoly in the sphere of agricultural products sale, primarily, in the domestic market of the country.

In order to consolidate the policy in the sphere of land resources management, to provide for the development of rural areas, to consolidate small plots of the state lands, in particular, in Slovakia they created a special financial institution – the Slovak Land Fund. In Hungary it is the National Land Fund, in the Czech Republic it is the Land Fund, in Poland it is the Agricultural Real Estate Agency, in Lithuania it is the National Land Service, and in Bulgaria it is the National Company “Zemlia” (Land) [24]. Thus, the countries of Central and Eastern Europe, adopting each other's experience, have created powerful financial institutions that not only affect the stability of financial flows to the sphere of small and medium-sized farming, but also influence to a great extent the agricultural lands turnover. At the same time, the active development of the agro-industrial complex of each country depends on timely and objective credit financing and subsidizing, first and foremost, of small and medium-sized farm enterprises.

For these purposes, for example, in Russia they created the joint stock company “Rosselkhozbank”, which offers a wide range of both credit products and programmes. With more than 80 branches and 1519 additional offices, banks are trying to cover as many small and medium-sized farmers as possible in order to grant them a credit, in particular, a mortgage credit secured by the land or agricultural machinery [25]. In Poland, there functions a National Bank of Cooperative Systems that includes: The Central Bank of Credit Unions (BGZ), 9 regional and 1200 local cooperative banks [26].

Of course, land banks, regardless of their name, are not limited to mortgage credit financing (secured on the land, equipment, harvest, etc.) but also provide services in the organization of business accounting, analysis of the financial condition of farm enterprises, provide information regarding mortgage credit financing, etc. However, the problem of mortgage credit financing is the transfer of ownership of the land to banks through mortgages, as the bank is not an agricultural producer. This situation requires the sale of land as soon as possible in order not to affect the free land turnover. For these reasons, there is a necessity to create land stock exchanges that could independently buy such land with its subsequent sale.

In this regard, the practice of Hungary, which created a credit guarantee fund, is interesting. The fund provides guarantees regarding obtaining of credits by small and medium-sized agricultural businesses against credit institutions [27].

In this context, Ukraine with its vast resources of black soil (chernozem) requires long-term large-scale investment projects, in particular, in beef cattle breeding, winegrowing, gardening, dairy industry, etc. The state budget of Ukraine allocated in 2020 4.2 billion UAH for these needs. On January 24, 2020, the Cabinet of Ministers of Ukraine approved the programme “Affordable loans 5-7-9%” [28, 35, 36]. Moreover, the main areas of financing according to these projects are: cattle breeding support – UAH 1 billion; cheapening of configuration of the domestically produced machinery and equipment – UAH 1 billion; development of farming and cooperatives – UAH 400 million; support of gardening, winegrowing, hop growing – UAH 400 million. The amounts of support on the part of the state in 2019 were similar.

In addition, Ukraine, like Hungary, is creating a Fund for partial credit guarantee in the agriculture. Thus, Ukraine is rapidly adopting European experience in the sphere of financial support of its agro-industrial complex, and such a work gave Ukraine an opportunity to sign on January 28, 2020 an agreement with the European Commission on financing of small and medium-sized farm enterprises with total estimated project costs amounting to EUR 26 million [29].

Certainly, such a support is important for Ukraine, as it can increase the capitalization of farm enterprises, the regulatory monetary value of one hectare of land of which is at the moment at the level of UAH 27.5 thousand, i.e., about EUR 840. When it comes to the lease price, in Bulgaria it makes up EUR 225 per 1 hectare, in Hungary – EUR 151, in Slovenia – EUR 147, in the Czech Republic – EUR 96, in Lithuania – EUR 81, in Croatia – EUR 76, in Estonia – EUR 52, in Slovakia – EUR 50, in Latvia – EUR 46, in Ukraine – EUR 41. In this regard, “Easy Business” experts believe that the received income of land shares owners in Ukraine is less at least in 25% annually [32-37].

CONCLUSION

Most countries of Central and Eastern Europe are still halfway to the completion of the agricultural land market reforming, as none of these countries, despite the significant success in this extremely complex economic and legal issue, has reached its final point. Land reforms in the countries of Central and Eastern Europe have demonstrated the need for the specialized financial institutions, such as land banks, cooperative banks, credit unions, guarantee funds, which in the conditions of special characteristics of the agricultural production, low creditworthiness and solvency of small and medium-sized farm enterprises, a large period of capital turnover undoubtedly require large-scale credit financing both on the part of internal financial institutions and external international financial programmes of the EU, which is one of the guarantees of sustainable development of local agribusinesses, including farming, and in this view weakening the tendency to seize large land shares through their repurchase or lease by national or supranational land holdings and corporations.

Lease of land shares is currently the basis for functioning of the small and medium-sized farm enterprises in the

counties of Central and Eastern Europe. But such economy management has already a small inclination towards the purchase of these lands. Nowadays, these processes are still hampered by various internal restrictions, moratoria on land alienation, but the tendency towards the sale of agricultural lands after the expiry of the moratorium on such a sale, especially in Ukraine, is quite significant.

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