



IRWIR PAN
Polska Akademia Nauk
Instytut Rozwoju Wsi i Rolnictwa



Asociația tinerilor și tărăncilor
din România



Co-funded by the
European Union

RUAR
REBUILD RURAL
UKRAINE

«СУЧАСНІ ВИКЛИКИ В УПРАВЛІННІ ЗЕМЕЛЬНИМИ РЕСУРСАМИ»

“MODERN CHALLENGES IN LAND RESOURCES MANAGEMENT”

**Матеріали I Міжнародної науково-практичної
конференції**

**Materials of the 1st International Scientific and
Practical Conference**

Червень/June 7, 2024

УДК 332.36

Сучасні виклики в управлінні земельними ресурсами: матеріали I Міжнар. наук.-практ. конф. (м. Київ, 7 червня 2024 р.). Київ : Редакційно-видавничий відділ НУБіП України, 2024. 168 с.

Видання містить матеріали I Міжнародної науково-практичної конференції «Сучасні виклики в управлінні земельними ресурсами». Тематика конференції відображає комплексність, міждисциплінарність і багатовекторність проблем формування сталого землекористування та інноваційних підходів до їх вирішення. У тезах доповідей учасників представлено технічні, організаційні, економічні, екологічні та соціальні засади забезпечення формування сталого землекористування.

Матеріали збірника будуть корисними для фахівців у сфері землеустрою, геодезії, картографії, містобудування, геоінформаційних технологій та ін.

The publication contains materials of the I International scientific-practical conference «Modern challenges in land resources management». The theme of the conference reflects the complexity, interdisciplinarity and multi-vector nature of the problems of sustainable land use formation and innovative approaches to their solution. The participants' reports present the technical, organizational, economic, environmental and social principles of ensuring the formation of sustainable land use.

The materials of the collection will be useful for specialists in the field of land management, geodesy, cartography, urban planning, geographic information technologies, etc.

Матеріали подано в авторській редакції

Materials are submitted in the author's edition

Рекомендовано до друку вченими радами

Факультету землевпорядкування Національного університету біоресурсів і природокористування України
(протокол № 10 від 20 червня 2024 р.)

Інституту землекористування Національної академії аграрних наук України
(протокол № 6-1 від 24 червня 2024 р.)

ISBN 978-617-8171-66-7

© Національний університет біоресурсів і природокористування України, 2024
©Institute of Rural and Agricultural Development Polish Academy of Sciences (IRWiR PAN), 2024
©ДУ «Інститут економіки та прогнозування НАН України», 2024
©Інститут землекористування НААН України, 2024

Martyn A. G.
Doctor of Economic Sciences, Professor
National University of Life and Environmental Sciences of Ukraine
Kyiv, Ukraine

**STRATEGIC LAND USE FOR NATIONAL DEFENSE: LEGAL
MECHANISMS AND PRACTICAL SOLUTIONS IN RESPONSE TO
ONGOING RUSSIAN AGGRESSION**

The current geopolitical situation in Ukraine has highlighted the urgent need for large-scale construction, arrangement, and maintenance of engineering and fortification structures. These structures play a crucial role in defending against artillery shelling, airstrikes, and ground assaults, reducing casualties among both military personnel and civilians. This study examines the economic and legal implications of land use for these purposes and proposes mechanisms to balance national security needs with landowners' rights.

Land expropriation during wartime for defense needs involves specific legal and regulatory frameworks that balance public necessity with private property rights. Frances Thomson [1] examines the broad definitions of public use and the sociopolitical struggles influencing land expropriation laws in the United States. This study highlights the complexities and exceptions within the U.S. legal framework,

suggesting that expropriation laws are neither rigorously conditional nor particularly exceptional. Wu Yan [2] focuses on the legal protections for farmers affected by land expropriation, emphasizing the need for fair compensation and legal reforms to protect landless farmers. Sung Moo Park and Jung Gyu Kang [3] examine the satisfaction of landowners with alternative real estate options post-expropriation and the economic factors influencing their decisions. Tae-Wook Min explores the need for a balance between public and private interests in land expropriation, emphasizing the importance of just compensation [4]. However, overall, the issue of land expropriation during military conflicts for defense needs is relatively under-researched, and recommendations tend to be general in nature within the context of the general rules of compulsory land acquisition.

Fortified positions are essential for maintaining strategically important locations. They complicate enemy advancement and provide Ukrainian forces with the necessary time for regrouping and counterattacks. By forcing the enemy to expend significant resources and time to overcome these barriers, fortified positions contribute to a time advantage for the defense forces. Additionally, these structures boost the morale of both military personnel and civilians, aiding in the maintenance of stability and cohesion on the home front during wartime.

Engineering structures facilitate the organization of logistical routes and supply chains, essential for providing the Armed Forces and the population with necessary resources during wartime. These structures enable efficient distribution of supplies and support sustained military operations, contributing to the overall resilience of the national defense infrastructure.

Current Ukrainian land legislation includes legal instruments for the compulsory acquisition of land plots and other real estate objects for public necessity, including national defense. However, the need to purchase or requisition land plots for engineering and fortification structures is often unjustified, given their temporary nature. Once the military necessity ceases, these lands can be returned to their owners after reclamation. This makes the process of compulsory land acquisition complex, prolonged, and economically unjustified in most cases.

There is a need for a legal mechanism that allows the use of land plots of any ownership form for constructing, arranging, and maintaining engineering and fortification structures without purchasing them. This mechanism should include compensation for losses to landowners and land users and the return of land plots after military necessity ends. This approach would enable rapid fulfillment of the Security and Defense Forces' needs without burdening the state budget and preserving landowners' rights.

For national security and strategic planning, it is crucial to grant the Cabinet of Ministers of Ukraine the authority to impose restrictions on the use of land around strategic military and civilian infrastructure. This would prevent uncontrolled land use and development that could undermine the country's defense capabilities. Such

restrictions should prevent activities that could be detrimental to defense efforts or hinder the restoration of destroyed state infrastructure. Limiting the duration of these restrictions to 15 years balances the need to protect national interests with landowners' rights, reducing the risk of conflicts and maintaining social stability.

Special zones around many military installations separate combat training areas from surrounding territories and civilian infrastructure, reducing risks to the population. These zones can be used as agricultural land for growing crops, enhancing the efficient use of defense lands without compromising their primary purpose. A transparent mechanism for leasing such lands through electronic auctions would mitigate corruption risks and ensure fair competition among participants.

Decisions on leasing land should be made by the permanent land user with the Ministry of Defense of Ukraine's agreement or other relevant central executive body. The permanent land use rights should not be terminated, and additional leasing restrictions are necessary to ensure military interests are not compromised. This approach increases the efficiency of defense land use, boosts budget revenues, and expands the resource base for agribusiness in Ukraine.

One of the critical tasks on Ukraine's path to NATO membership is fulfilling the "Tallinn Criterion," which requires proper registration of military real estate and land by the candidate state. Compliance with this criterion is essential for aligning Ukraine's defense infrastructure with NATO standards, a necessary condition for joining the alliance.

Given that many defense lands were allocated during the Soviet era to various land users, there is an urgent need for systematic regularization of defense land rights. The Ministry of Defense of Ukraine should be designated as the primary land user of these lands. The Cabinet of Ministers of Ukraine must be granted the authority to transfer land plots from defense lands into the permanent use of the Ministry of Defense of Ukraine. Primarily, this pertains to land plots allocated for the permanent use of military units of the Armed Forces of Ukraine, enterprises, institutions, and organizations under the Ministry of Defense of Ukraine's management. Additionally, it is necessary to include plots that were allocated for permanent use by military units before the enactment of the Land Code of Ukraine, whose activities have ceased, except for those transferred to the ownership or use of other entities.

The proposed legal and economic mechanisms aim to address the urgent need for efficient land use in Ukraine's national defense while ensuring the rights of landowners are preserved. By granting the Cabinet of Ministers of Ukraine the authority to impose strategic land use restrictions and establishing transparent mechanisms for leasing defense lands, Ukraine can enhance its defense capabilities and align with NATO standards.

References

1. Thomson, F. (2020). Expropriations of private property for economic ‘development’ in the United States: re-thinking the titling and rule of law solutions to land grabs in the global South. *Estudios Socio-Jurídicos*, 22(2), 1-31. Doi: <https://doi.org/10.12804/revistas.urosario.edu.co/sociojuridicos/a.7872>
2. Yan, Z.; Wei, F.; Deng, X.; Li, C.; Qi, Y. Does Land Expropriation Experience Increase Farmers’ Farmland Value Expectations? Empirical Evidence from the People’s Republic of China. *Land* 2021, 10, 646. <https://doi.org/10.3390/land10060646>
3. Park, S., & Kang, J. (2022). A Study on Acquisition Factor and Satisfaction of Alternative Real Estate after Land Expropriation. Residential Environment Institute Of Korea. <https://doi.org/10.22313/reik.2022.20.2.34>.
4. Min, T. (2023). Balance between Public Interest and Private Interest in Land Compensation. Korean Public Land Law Association. <https://doi.org/10.30933/kpllr.2023.101.23>.

STRATEGIC LAND USE FOR NATIONAL DEFENSE: LEGAL MECHANISMS AND PRACTICAL SOLUTIONS IN RESPONSE TO ONGOING RUSSIAN AGGRESSION

Abstract. The ongoing full-scale Russian aggression in Ukraine has necessitated the urgent construction, arrangement, and maintenance of engineering and fortification structures critical to the protection of military units and civilians. These structures significantly enhance defensive capabilities, reduce casualties, and maintain strategic positions, thereby complicating enemy advancement and boosting morale. Current Ukrainian land legislation, however, makes compulsory acquisition complex and economically unjustified. This study proposes a legal mechanism for the temporary use of privately owned land for defense purposes without purchase, ensuring compensation and return post-conflict, thus balancing national defense needs with landowner rights.