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**National University of Life Resources and Environmental Management of
Ukraine**

Faculty of Law

**Department of Agrarian, Land and Environmental Law
named after Acad. V.Z. Yanchuk**

**Methodological materials and assignments for seminar classes in the
discipline "Land Law" for full-time students studying for the Bachelor's degree
program, specialty 193 "Geodesy and Land Management"**

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Methodological materials and tasks for seminar classes are highlighted, questions for theoretical preparation and self-testing of students' knowledge are provided. A list of recommended literature is provided for each topic.

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INTRODUCTION

Land law of Ukraine is a basic normative academic discipline studied in the process of training specialists and forming practical skills in applicants for independent solution of problems related to the implementation of land legislation. The need for knowledge of land legal relations is caused by their important social significance. It acquires particular importance during the period of reforming land legal relations in Ukraine and a significant update of the legal basis of their regulation. The study of land law contributes to the formation of a modern lawyer as a specialist who can ensure the regime of legality of sustainable development of land rights and interests of relevant subjects.

The objectives of the course are: students' mastery of the necessary theoretical provisions; assimilation of the content of land law categories, the essence of land law institutions; mastering the skills of revealing the content of land law norms, explanations of the highest judicial instances of Ukraine and decisions of the Constitutional Court of Ukraine, their interpretation and correct application in resolving specific cases; gaining experience in scientific research work in the field of land law; consolidating the skills of independent processing of regulatory legal acts, land law scientific literature, and materials of judicial practice.

Applicants must also learn to work independently with regulatory legal acts, legal literature, and case law materials.

The objectives of the academic discipline "Land Law" are: obtaining basic theoretical knowledge; familiarizing students with the concept and content of land legal relations in Ukraine, the objective laws of their formation and development; forming in students a system of knowledge about the legal regulation of land legal relations; instilling in students the ability to work with regulatory legal acts; revealing the meaning and content of 10 separate legal institutions: land ownership rights, land use rights, restrictions and encumbrances of land rights, land protection, legal liability

for land offenses; providing legal characteristics to various categories of land; involving students in an active discussion of theoretical issues, as well as teaching them to formulate and clearly express their opinion, demonstrate independence and a creative approach to solving specific life situations in the field of land use.

Training takes place in the form of practical classes, colloquiums, consultations, and individual educational and research tasks.

Practical classes are one of the main forms of training. They involve solving problems, business games, clarifying and discussing specific agrarian and legal issues. In some cases, colloquiums are held on the most important theoretical topics. When preparing for classes, as a result of independent work, applicants must master certain sections of textbooks and recommended literature, learn the content of the necessary regulatory acts, familiarize themselves with judicial practice, and finalize lecture notes. When performing tasks, one should analyze the conditions and circumstances given, answer all theoretical and practical questions, and present the answers in writing in the form of detailed, reasoned decisions with reference to the relevant norms of current legislation.

Practical classes test the degree of students' mastery of the theory of land law on relevant issues, legislation, and the practice of its application.

The assessment of applicants' knowledge is carried out based on the results of practical classes and final knowledge control, the form of which is an exam. Its purpose is to check the level of mastery of theoretical knowledge, skills and abilities to apply this knowledge when performing specific practical tasks.

As a result of studying the academic discipline "Land Law", applicants must :

- **to know** the state of the main problems of the science of land law; the essence of land legal categories; the concept, content and meaning of land legal relations; features of the acquisition and exercise of the right of ownership and use of land plots, regulation of land payments; guarantees of the exercise and protection of land rights of subjects; specifics of the legal regulation of the use of individual categories of land; legal

- regime of specially protected territories;
- **to freely navigate** the system of land law in Ukraine and the judicial practice of applying land legislation when considering civil and criminal cases;
 - **be able** to correctly interpret and apply the provisions of regulatory legal acts, while determining the types of legal relations; use the data of the science of land law to solve professional tasks; carry out a legal analysis of circumstances to qualify land relations; when performing professional tasks, determine the legal status of bodies in the field of management of the use, reproduction and protection of lands and the legal consequences of the decisions they make; within the framework of the economic and legal mechanism of land use and land protection, take economic measures of rational land use and the mechanisms of legal regulation of the use, protection and reproduction of land resources provided for by law; argue one's own point of view and make a decision on a specific task;
 - **to get acquainted** with the practice of applying land regulations by the courts of Ukraine, promising and main directions of development and codification of land legislation.

After mastering the educational component "Land Law", applicants must have the following competencies:

General competencies (GC):

ZK02. Ability to apply knowledge in practical situations

ZK07. Ability to work autonomously

ZK08. Ability to work in a team

ZK13. The ability to preserve and multiply moral, cultural, scientific values and achievements of society based on understanding the history, patterns of development of the subject area, its place in the general system of knowledge about nature and society, as well as in the development of society, technology and engineering, to use various types and forms of physical activity for recreation and leading a healthy lifestyle

Special (professional) competencies (SC):

SK03. Ability to apply regulatory legal acts, regulatory and technical documents, reference materials in professional activities

SK05. Ability to apply modern information, technical and technological support to solve complex issues of geodesy and land management

SK08. Ability to carry out professional activities in the field of geodesy and land management, taking into account the requirements of professional and civil safety, labor protection, social, environmental, ethical, economic aspects

SK13. Ability to develop documentation on land management and land valuation, cadastral documentation, fill in data for state land, urban planning and other cadastres

Learning outcomes (LOs):

PH4. Know and apply in professional activities regulatory and legal acts, regulatory and technical documents, reference materials in the field of geodesy and land management and related industries.

PH5. Apply conceptual knowledge of natural and socio-economic sciences when performing tasks in geodesy and land management.

RN12. Develop land management documentation, cadastral documentation and land valuation documentation using computer technologies, geographic information systems and digital photogrammetry, fill the state land, urban planning and other cadastres with data.

PH15. Develop and make effective decisions regarding professional activities in the field of geodesy and land management, including under conditions of uncertainty.

CONTENT MODULE 1

Topic 1. Land law as a branch of law

The goal is to check the level of students' mastery of theoretical provisions and legal norms, and to teach students to apply this knowledge when solving specific practical tasks.

Methodological recommendations: The student must skillfully operate with the following concepts: The concept and subject of land law. The content and types of land legal relations. Subjects and objects of land legal relations. The emergence, content and termination of land legal relations. The legal mechanism for the implementation of land legal norms. Methods of land law. Principles of land law. The system and structure of land law. Functions of land law. The correlation and interaction of land law with related branches of the legal system of Ukraine. Development of the science of land law. Legal support for land reform.

Questions for discussion

1. The concept, subject and method of legal regulation of land law.
2. The system of land law.
3. Principles of land law.
4. Sources of land law.

Methodological guidelines

1. The concept, subject and method of legal regulation of land law.

Land law as an independent branch of law in the Ukrainian legal system is a systematized set of legal norms adopted or sanctioned by the state, intended to regulate public land relations in order to ensure the rational use, restoration and effective protection of land resources, protect the rights and interests of citizens, legal entities,

territorial communities and the state to land, observe the established legal order in land relations and, on these principles, form and establish a stable land system in the country.

The subject of land law is land relations .

The Land Code of Ukraine in Article 2 defines land relations as social relations regarding the ownership, use and disposal of land.

The method of legal regulation is an approach to regulating a certain type of social relations, which entails the use of certain legal means.

The peculiarities of land relations are reflected in the specific combination of imperative and dispositive methods of legal regulation of this sphere of social relations.

The imperative method (involves influencing participants in land relations by issuing mandatory orders and establishing various prohibitions) is used in the field of land use and protection management, in particular: when determining the procedure for implementing state administration functions; maintaining the state land cadastre, land monitoring; implementing land management; determining the procedure for conducting land auctions and competitions; establishing restrictions on the use of land for its intended purpose, etc.

The dispositive method (determines only the boundaries of the behavior of the participants in the relevant relations, which gives them the opportunity to freely and independently regulate their relations within the established scope) is an attribute of regulating the relations of land owners regarding the use of land and independent management of it, which is based on the recognition that each owner has the right to dispose of the land plot belonging to him at his discretion. Under such conditions, the participants in land relations can, within certain limits, regulate relations among themselves independently.

Types of dispositive methods are recommendatory, sanctioning, and delegating.

2. The system of land law.

The system of land law as a legal branch is a set of legal institutions, each of which consists of groups of legal norms that regulate homogeneous land relations.

The land law system is divided into two parts: general and special.

The general part of land law consists of legal institutions containing starting provisions and basic principles, the effect of which extends to all or is inherent in the majority of relations regulated by land law.

The general part traditionally includes:

- the institution of land ownership (land rights of citizens and legal entities that are owners of land plots, grounds for the emergence, change and termination of land rights),
- institute of land use law,
- institute for legal protection of lands, etc.

These legal institutions significantly influence the formation of the content and composition of the institutions of the special part.

A special part of land law consists of legal institutions that determine the legal regime of individual categories of land depending on their main purpose. It performs concretizing and detailing functions of legal regulation.

The legal institutions of the special part are “subordinate” to the institutions of the general part, and their content concerns a certain type of detailed land relations.

3. Principles of land law.

Principles of law are fundamental principles and main ideas that are characterized by universality, general significance, supreme imperativeness, and reflect the essential provisions of law.

The principles of land law are divided into constitutional, general, and special.

Constitutional principles are defined as general legal principles inherent in the modern Ukrainian legal system and common to all branches of domestic law. They are fundamental principles regulating the entire system of social relations, including land relations.

The Constitution of Ukraine enshrines the following fundamental principles: the principle of the division of state power into legislative, executive and judicial (Article 6), the principle of recognition and guarantee of local self-government (Article 7), the principle of the rule of law and the principle of the rule of law (Article 8), the principle of equality of all subjects of property rights before the law (Article 13), etc. General (branch-wide) principles, being the result of the reproduction of constitutional principles, cover the most widespread scope of public land relations and apply to all land law norms.

General (sector-wide) principles, being the result of the reproduction of constitutional principles, cover the most widespread scope of public land relations and apply to all land law norms.

The current land legislation is based on the principles of: combining the features of land use as a territorial base, natural resource and main means of production; ensuring equality of land ownership rights of citizens, legal entities, territorial communities and the state; non-interference of the state in the exercise by citizens, legal entities and territorial communities of their rights to own, use and dispose of land plots, except in cases provided for by law; ensuring rational use and protection of land; ensuring guarantees of land rights; priority of environmental safety requirements. The above principles of land law are enshrined in Art. 5 of the Land Code of Ukraine.

Special principles of land law should be understood as guiding principles that reflect the essence of land law norms and the main directions in the field of legal regulation of social relations related to the rational use and effective protection of land resources.

These include:

- The principle of targeted and rational use of land
- The principle of establishing a special legal regime for lands of relevant categories
- The principle of priority of land use for agricultural production

- The principle of exercising control over the use and protection of land
- The principle of payment for land use
- The principle of ensuring the protection of the rights of individuals and legal entities to land.

4. Sources of land law

Sources of land law are an external form of expression of legal norms that establish generally binding, formally defined rules of conduct, sanctioned by the coercive power of the state.

The main source of land law is the Constitution of Ukraine, according to which in 2001 the Land Code of Ukraine was adopted in Ukraine, as well as a number of special laws.

Among the laws as sources of land law, the leading place is occupied by the Land Code of Ukraine (hereinafter referred to as the Land Code of Ukraine). It is a general sectoral codified specialized law in the system of Ukrainian legislation, and in the system of land legislation - the main one.

Subordinate normative acts as sources of land law are normative legal acts that express the land policy of the state, do not contradict the Constitution of Ukraine, the Civil Code of Ukraine, the laws of Ukraine, and develop and detail their provisions.

Subordinate legal acts as sources of land law of Ukraine include Decrees of the President of Ukraine, resolutions of the Cabinet of Ministers of Ukraine, regulatory legal acts of ministries and departments, decisions of local state administrations, and decisions of local self-government bodies.

Test questions

1. The concept and subject of land law.
2. What are the features of the classification of land relations?
3. What are the specifics of methods for regulating land relations?
4. Principles of land law.
5. What are the components of the land law system?

6. Peculiarities of the relationship of land law with related branches of law and its place in the Ukrainian legal system.
7. Formulate the concept of sources of land law in Ukraine.
8. Name the general and specific features of the sources of land law in Ukraine.
9. Give a classification of the sources of land law in Ukraine.
10. Features of the structure and content of the Civil Code of Ukraine.
11. What is the place of the Land Code of Ukraine in the system of sources of land law of Ukraine?
12. The place of international legal acts in the system of sources of land law of Ukraine.
13. What role do the decisions and conclusions of the Constitutional Court of Ukraine play in the system of sources of land law of Ukraine?
14. The significance of court decisions in the system of sources of land law in Ukraine.

Task

I. Give examples indicating the articles of the Land Code of Ukraine where the methods of legal regulation of land law are manifested, and detail their expression.

| Types of legal regulation methods | Number and title of the article of the Landowner Code of Ukraine | The essence of the expression |
|-----------------------------------|--|-------------------------------|
| Imperative | Recommendatory | |
| Purview | Authorizing | |
| | Delegating | |

II. Solve the problem:

Task 1

A lease agreement for an agricultural land plot for farming purposes was concluded between a citizen and a legal entity - the owner of the land plot. The agreement specifies the cadastral number of the land plot, its size and location, the amount of the rent and liability for its non-payment. The term of the lease agreement is five years; the agreement was concluded in simple written form, it was not submitted for state registration.

What relationships arose in this case?

What regulatory legal acts (sources of land law) regulate them?

What legal requirements were violated when concluding the said contract?

Prepare a reasoned answer.

Topic 2. Land ownership

The goal is to check the level of students' mastery of theoretical provisions and legal norms, and to teach students to apply this knowledge when solving specific practical problems.

Methodological recommendations: understanding the concept and content of land ownership, characteristics of forms of land ownership: private land ownership, state land ownership, communal land ownership, collective land ownership, land ownership of the Ukrainian people.

Questions for discussion

1. The concept and content of land ownership .
2. Forms of land ownership:
 - 2.1. The right to private ownership of land.

2.2. State ownership of land.

2.3. The right of communal ownership of land.

2.4. The right to collective ownership of land.

2.5. The right of ownership of the land of the Ukrainian people.

Methodological guidelines

1. The concept and content of land ownership.

Land ownership is considered in a subjective and objective sense.

In the subjective sense, land ownership is a certain authority (competence) of subjects in relation to land (a plot of land) as an object of law.

Part 1 of Article 78 of the Land Code of Ukraine defines land ownership as “the right to own, use and dispose of land plots.”

Part 1 of Article 316 of the Civil Code of Ukraine defines ownership as “the right of a person to a thing (property), which he exercises in accordance with the law at his own will, regardless of the will of other persons.”

The right of ownership of land (a plot of land) is the right to complete control over the land (a plot of land), with restrictions established by law or contract, which a person exercises of his own free will, regardless of the will of other persons.

Land ownership in the objective sense is a purely doctrinal category. In the objective sense, land ownership is generally considered to be a system of legal norms that regulate relations regarding the acquisition and exercise of subjective land ownership.

The content of the right of ownership of land (a plot of land), as well as any other thing, can be conditionally expressed through the authority to own, use and dispose of the land plot (Article 78 of the Civil Code of Ukraine, Article 317 of the

Civil Code of Ukraine).

The right to own land is a legally secured opportunity to dominate a thing.

The right to use land plots is a legally secured opportunity to use the useful properties of a thing.

The scope of the right to use a land plot is limited and is determined by the intended purpose of the land plot. A land plot can (and must) be used only for its intended purpose (Article 91 of the Civil Code of Ukraine, Part 4 of Article 373 of the Civil Code of Ukraine).

The right to dispose of land plots is a legally secured opportunity to determine the future fate of a thing by committing legal acts to it. The regime for exercising the right to dispose of land plots is characterized by significant specificity. Thus, there are special rules for the alienation of land plots; special rules for providing land plots for use; special rules for restricting and encumbering the right of ownership of a land plot; a special procedure for changing the purpose of land plots; damage and, even more so, destruction of land plots is prohibited and entails legal liability.

2. Forms of land ownership.

The legislation and land law doctrine of Ukraine have established a division of land ownership rights by subject of law into "forms of land ownership rights."

The current LKU distinguishes between the following legal regimes:

- 1) private (individuals and legal entities);
- 2) state;
- 3) communal ownership of land.

2.1. Communal ownership of land

The right to communal property arose in Ukraine directly by virtue of the law - namely, paragraphs 3 and 4 of Section II of the Law of Ukraine dated 06.09.2012 No. 5246-VI "On Amendments to Certain Legislative Acts of Ukraine Regarding the Delimitation of Lands of State and Communal Property":

"3. From the date of entry into force of this Law, the following shall be

considered communal lands of the relevant territorial communities:

a) land plots:

on which buildings, structures, and other real estate objects of communal ownership of the relevant territorial community are located;

which are in constant use by local government bodies, municipal enterprises, institutions, and organizations;

b) all other lands located within the boundaries of the relevant settlements, except for privately owned land plots and land plots specified in subparagraphs "a" and "b" of paragraph 4 of this section.

4. The following remain in state ownership:

a) land plots located within populated areas:

on which buildings, structures, and other state-owned real estate are located;

which are in constant use by state authorities, state enterprises, institutions, organizations, the National Academy of Sciences of Ukraine, state sectoral academies of sciences;

which belong to the lands of defense;

b) lands of exclusion zones and unconditional (mandatory) resettlement zones that have been subjected to radioactive contamination as a result of the Chernobyl disaster;

c) all other lands located outside populated areas, except for privately owned land plots and land plots specified in subparagraph "a" of paragraph 3 of this section."

The specificity of communal property law lies in its subject-object structure.

Art. 142 of the Civil Code, Art. 80, 83 of the Civil Code define the subjects of communal property rights as the relevant territorial communities, which exercise the right of ownership either directly (through a local referendum, general meeting of citizens - Art. 7, 8 of the Civil Code "On Local Self-Government in Ukraine"), or through local self-government bodies. These bodies, in accordance with Art. 8-12, 80 and others of the Civil Code, are the relevant local councils: village, settlement, city -

with respect to the lands of territorial communities, district, regional and the Verkhovna Rada of the Autonomous Republic of Crimea - with respect to the lands of joint ownership of territorial communities.

Certain communally owned lands cannot be transferred to private ownership (Part 4, Article 83 of the Land Code):

"a) public lands of settlements (squares, streets, thoroughfares, roads, embankments, beaches, parks, squares, boulevards, cemeteries, waste disposal and recycling sites, etc.);

b) land under railways, roads, air and pipeline transport facilities;

c) lands under objects of the natural reserve fund, historical, cultural and health-improving purposes, which have special ecological, health-improving, scientific, aesthetic and historical and cultural value, unless otherwise provided by law;

d) forestry lands, except for cases specified in this Code;

e) water fund lands, except for cases specified in this Code;

e) land plots used to support the activities of local government bodies;

e) land plots artificially created within the coastal protection zone or the allocation zone, on forestry lands and nature reserve lands located in the coastal protection zone of water bodies, or on land plots at the bottom of water bodies.

2.2. Private ownership of land

Art. 80 of the Civil Code defines citizens and legal entities as subjects of private ownership of land. Taking into account the content of Art. 81 and other norms of the Civil Code, this provision should be understood broadly, since foreign citizens and stateless persons are also recognized as subjects of private ownership of land.

The legislation determines which land plots may belong to each of the listed entities. As for citizens of Ukraine, there are practically no restrictions on the object composition of the land that may be owned by them (Part 1 of Article 81 of the Law on the Land Use).

Foreign citizens and stateless persons, in accordance with Part 2 of Article 81 of the Civil Code of Ukraine, "... may acquire ownership rights to non-agricultural land plots within settlements, as well as to non-agricultural land plots outside settlements on which real estate objects belonging to them by right of private ownership are located". It follows from Part 4 of Article 81, Article 145 of the Civil Code of Ukraine that these persons also have the right to acquire agricultural land plots, but only by inheritance, and are obliged to alienate them within a year. Failure to comply with this requirement shall result in the consequences provided for in Part "d" of Article 143 of the Civil Code of Ukraine, namely, the right of ownership to the land plot may be forcibly terminated.

Legal entities "(founded by citizens of Ukraine or legal entities of Ukraine) may acquire ownership of land plots for the purpose of carrying out entrepreneurial activities..." (Part 1, Article 82 of the Law on Land).

Part 2 of Article 82 of the Law of Ukraine on Land Use provides that foreign legal entities "... may acquire ownership rights to non-agricultural land plots: a) within settlements in the case of acquisition of real estate and for the construction of facilities related to entrepreneurial activity in Ukraine; b) outside settlements in the case of acquisition of real estate."

2.3. State ownership of land

The specificity of state property law lies primarily in its subject-object structure.

According to Art. 80 of the Law of Ukraine, the subject of the right of ownership of state-owned land is the state, which "exercises this right through the relevant state authorities". The "relevant state authorities" of the Law of Ukraine in Art. 13, 16, 17, 17-1 and 84 define 1) the Cabinet of Ministers of Ukraine, 2) the Republic of Crimea, local state administrations - 3) district and 4) regional and Kyiv and Sevastopol city state administrations, and 5) state privatization bodies (see also Clause 6, Part 1, Article 5 of the Law of Ukraine "On the State Property Fund of Ukraine"), 6) "the central executive body on land resources" (Part 4, Article 122 of the Law of Ukraine).

The powers of these bodies are delimited by Art. 118,122,129,149,150 of the Law of Ukraine.

The new LKU moved away from the rigid consolidation of certain categories of land in state ownership, providing only for the impossibility of transferring certain types of land from state to private ownership (Part 4, Article 84 of the LKU). These are: "a) lands of the nuclear energy and space system; b) lands under state railways, objects of state ownership of air and pipeline transport; c) lands of defense; d) lands under objects of the nature reserve fund, historical-cultural and health-improving purpose, which have special ecological, health-improving, scientific, aesthetic and historical-cultural value, unless otherwise provided by law; e) lands of forestry, except for cases specified by this Code; e) lands of the water fund, except for cases specified by this Code; e) land plots used to ensure the activities of the Verkhovna Rada of Ukraine, the President of Ukraine, the Cabinet of Ministers of Ukraine, other state authorities, the National Academy of Sciences of Ukraine, state branch academies of sciences; g) land plots of exclusion zones and unconditional (mandatory) resettlement that have been subjected to radioactive contamination as a result of the Chernobyl disaster; g) land plots assigned to state vocational and technical educational institutions; h) land plots assigned to state-owned higher educational institutions; i) land plots used by the Black Sea Fleet of the Russian Federation on the territory of Ukraine on the basis of international treaties, the consent to which has been granted by the Verkhovna Rada of Ukraine.

In addition to those listed, any land plots under real estate objects that are not subject to privatization cannot be transferred to private ownership, since such a transfer would violate the principle of targeted land use.

Any land can be state-owned, not just those mentioned in Article 84 of the Law on Land Use.

Test questions

1. Define land ownership in an objective and subjective sense.

2. What are the forms of land ownership and their relationship?
3. What are the features of land ownership rights?
4. Define the subjects of state, municipal, and private land ownership.
5. What is the object of land ownership?
6. What are the grounds and procedure for the emergence of ownership of a land plot?
7. What groups of rights and obligations of land owners are provided for by law?
8. Describe the features of acquiring ownership of land on civil law grounds.
9. Determine the moment of origin of ownership of the land plot.
10. What are the features of termination of ownership of a land plot?
11. What is the protection of land ownership?
12. The legal nature of the Ukrainian people's ownership of land.
13. Land as an object of property rights of the Ukrainian people.
14. The Ukrainian people as a subject of land ownership.
15. The content of the Ukrainian people's right of ownership of land.
16. Protection of the Ukrainian people's right to land ownership.

Task

- I. Make a comparative table and describe the conditions and procedure for the emergence of the right of joint and joint partial ownership.
- II. Prepare a report on one of the proposed topics:
 1. The concept of land ownership and the features of its object.
 2. Features of the content of land ownership.
 3. Forms of land ownership.
 4. The right to private ownership of land.

5. State ownership of land.
6. The right of communal ownership of land.
7. The right to collective ownership of land.
8. The right of ownership of the land of the Ukrainian people.
9. Features of the right of joint ownership of land.
10. Rights and obligations of land owners.
11. Grounds for acquisition, transfer and termination of ownership of land plots.

III. Solve the problems:

Task 1.

Oleksienko S. decided to sell the land plot that belonged to him on the right of private ownership for running a personal farm, since due to the deterioration of his health he could no longer cultivate it. He and the buyer of the land plot, Pakratov M., applied to a notary to certify the purchase and sale agreement. But the private notary refused to certify this agreement, since, in his opinion, according to the current legislation, the alienation of agricultural land plots is prohibited, and such an agreement would be invalid. Then Oleksienko S. offered to exchange the land plot for Pankratov M.'s car with an additional payment, but the notary also refused to certify this agreement.

Citizens turned to the district land resources department for clarification.

1. On what provisions of land legislation is the notary's refusal to certify contracts based?

2. What land plots are subject to the prohibition on their alienation? What are the consequences of concluding agreements in violation of this prohibition?

3. *Give an answer to citizens.*

Task 2.

A citizen of the Republic of Belarus, Sidorov M., inherited a house in the village of Pokrovske by will and applied to the village council with an application for privatization of the personal plot of land, since it was not privatized by the testator at the time.

The council's decision denied his application due to the fact that, as a foreign citizen, he cannot acquire ownership of land in Ukraine. The council proposed to provide the land plot on lease terms.

1. *What subjects of private property rights are defined by land legislation?*

2. *Does the Land Code of Ukraine provide for the possibility of foreigners acquiring ownership rights to land plots in Ukraine?*

Task 3.

Citizen Okhrimenko G. set up a trading kiosk on a land plot transferred to her under the right of private ownership for servicing a residential building and outbuildings (a private plot). During the inspection, the senior state inspector for land use and protection drew up a report on holding the citizen liable in the form of a fine for using the land plot for purposes other than its intended purpose and for unauthorized construction. In addition, citizen Okhrimenko G. was warned that if these violations were not eliminated, she would be deprived of her ownership of the land plot.

Okhrimenko G. appealed the state inspector's decision to hold her accountable in court. She believes that as the owner she has the right to build on the land plot.

1. *What rights and obligations do land owners have?*

2. *Are there any violations of land legislation in this case?*

3. *In what cases is the termination of the right to ownership of a land plot provided for? What is the procedure for the forced termination of the right to a land plot?*

Task 4

Citizen Ivanov applied to the village council with an application for the privatization of two land plots: 1) a personal plot of land with an area of 0.2 hectares, which he previously used; 2) a plot of land for gardening with an area of 0.1 hectares.

What decision should the village council make?

Task 5

The city council made a decision to buy out a land plot owned by K. as private property for the location of a nature reserve. Six months before the upcoming buyout, he was sent a corresponding decision by mail for review. Having no objections to the buyout of his land plot, K. gave his consent. However, after some time he died. K.'s son, as an heir, did not give his consent to the buyout of the land plot. Motivating its decision by the fact that, according to the legislation, the creation of territories and objects of the nature reserve fund is carried out without the seizure of land plots from their owners and users, the city council filed a lawsuit with the administrative court.

Solve the case.

What is the procedure for alienating land plots?

Task 6

German citizen S. is the owner of a land plot, which she acquired as a citizen of Ukraine, in accordance with the procedure established by the Law of Ukraine “On the Procedure for Allocating Land Plots in Kind (On the Ground) to Owners of Land Shares (Shares)” of June 5, 2003. The village council, considering S. to be the wrongful owner of the land plot, made a decision to alienate the land plot.

Give a legal opinion on the case.

Task 7

Ch., being a participant in hostilities (ATO participant), applied to the village council with an application for the transfer to him of a land plot located outside the village and bordering the road, for personal farming. The application stated that he had an extraordinary right to receive ownership of the land plot of the specified purpose.

The village council refused, citing the lack of free land plots, and also indicated the incorrect execution of the documents provided. Ch. filed a lawsuit against the actions of the village council with the administrative court.

Solve the case.

What are the features of the priority allocation of land plots to combatants (ATO participants)?

Task 8

K. was the owner of a residential building and outbuildings located on a 0.25 hectare land plot, which had been transferred to him in the past for permanent land use. After K.'s death, the house and outbuildings were inherited by three of his heirs. Later, they built two more residential buildings, a garage and a barn on the land plot, and arranged additional entrances. The court's decision recognized the ownership of one new residential building and a garage near it. The owner of this building decided to acquire part of the land plot, but the other owners of the houses did not give him consent to this. Considering his rights violated, he decided to go to court.

Are there grounds for the emergence of ownership rights to the land plot for this entity?

How can the transfer of ownership of a land plot be carried out under such circumstances?

What actions need to be taken to obtain ownership of a land plot before filing a lawsuit?

Topic 3. Land use rights

The goal is to check the level of students' mastery of theoretical provisions and legal norms, and to teach students to apply this knowledge when solving specific practical problems.

Methodological recommendations: understanding the concept of land use rights and its types; subjects and objects of land use rights; the right to general land use; acquisition and termination of land use rights; rights and obligations of land users; features of the right to permanent land use; the right to lease a land plot.

Questions for discussion

1. The concept of land use law and its types.
2. General characteristics of individual land use rights titles.
 - 2.1. The right to permanent use of land plots.
 - 2.2. Lease of land plots.
 - 2.3. Rights to other people's things (land plots).
 - 2.4. Right to common land use.
3. Legal principles of land lease.

Methodological recommendations

1. The concept of land use rights and the classification of its legal titles

Land use rights can be considered in different aspects:

- 1) in a subjective sense –

as the right to use land plots, i.e. the use of their useful properties (the right to use is a component of the "classical triad" of the owner's powers) or

as a legal title that grants individuals and legal entities a subjective right to use a land plot, distinct from the right of ownership. Such a title is a "label" that corresponds to a certain set of powers regarding the land plot - regarding:

use and, in certain cases;

possession;

limited right to dispose of it (e.g., by subleasing the land plot).

2) in an objective sense - as an institution of land law, a set of legal norms that regulate the exercise of the subjective right to land use, its emergence, change and termination.

There are quite a few doctrinal classifications of land use legal titles. Classifications are distinguished by:

Direct object: real or obligatory. Real rights, unlike obligatory ones, are characterized by the fact that they

are absolute in nature;

have as their subject an individually defined thing;

are characterized by the "right of way;

derivatives dependent on the right of ownership as the main real right;

There is also such a feature of real rights as their priority over obligatory rights. From the absolute nature of real rights it follows that their exhaustive list must be determined by law, in addition, such rights must be registered (otherwise the obligated persons will not be notified of their obligations). At the same time, the range of obligatory rights is not limited, the parties may, at their discretion, establish in the contract a right that is not provided for by law; the intended purpose of the land plot used:

1) the right to agricultural land use;

2) the right to non-agricultural land use. A more detailed classification is also

possible according to land categories (Article 19 of the Land Code), type of land within one land category;

Subject of land use rights: land use rights of citizens, foreign citizens, stateless persons, various types of legal entities, etc.;

By the scope of user authority:

- 1) complete (exclusive);
- 2) incomplete (limited, non-exclusive);

The "full" right of land use should include use based on a legal title that excludes the use of the land plot by other persons on another "full" right, including the owner (right of permanent use, lease, emphyteusis , superficies), the scope of use under the "full" right is equal to the scope of use of the owner. The "incomplete" right of land use should include the right of land use that can "coexist" with the "full" and even more so "incomplete" right of use - e.g., easement, right of general land use, right to use land plots for conducting exploration work, etc.;

Term of use:

- 1) permanent – without a predetermined term;
- 2) the right of temporary land use. In short, according to Article 19 of the Law "On Land Lease", the term of the land lease agreement is determined by agreement of the parties, but not more than 50 years. In turn, lease as a type of temporary use right is divided into short-term (up to 5 years) and long-term (over 5 years) - Part 4 of Article 93 of the Land Lease Act;

Fee: paid / free;

Regarding property rights:

- 1) primary (e.g., rental);
- 2) secondary (e.g., sublease, so-called "official use", which was provided for by legislation on various types of transport, etc. and remains today as a "residual phenomenon").

2. General characteristics of individual land use rights titles

Let us recall that in this topic, the right to use land is considered as a legal title, that is, a "name" (from Latin), a "label", to which a certain set of rights, signs of the right to use corresponds.

2.1. The right to permanent use of land plots

"The right to own and use a land plot that is in state or municipal ownership, without establishing a term" (Part 1, Article 92 of the Land Code of Ukraine).

The right to permanent use of land plots is a property right of an exclusive, permanent, primary, and refundable nature (reimbursement is conditional: the payment is made in the form of a land tax).

The right to permanent use of a land plot is characterized by a limited subject-object composition:

object – only land plots of state or municipal property;

Subjects may be only a) enterprises, institutions and organizations belonging to state and municipal ownership; b) public organizations of disabled people of Ukraine, their enterprises (associations), institutions and organizations; c) religious organizations of Ukraine, the statutes (regulations) of which are registered in the manner prescribed by law, exclusively for the construction and maintenance of religious and other buildings necessary to ensure their activities; d) a public joint-stock company of public railway transport, established in accordance with the Law of Ukraine "On the Peculiarities of the Formation of a Public Joint-Stock Company of Public Railway Transport" (Article 92 of the Law of Ukraine). Meanwhile, the currently existing right of permanent use of other entities, which arose before the entry into force of the Law of Ukraine of 25.10.2001, is preserved (clause 6, section X of the Law of Ukraine). Regarding the circle of potential users of individual land plots, there may be special restrictions - for example, with regard to land plots of the water fund, they are provided for in Article 59 of the Law of Ukraine (the right is granted to "state water management organizations ..., state enterprises" for certain needs); lands of forestry purpose - Articles 17 of the Law of Ukraine and Article 57 of the Law of

Ukraine (the right may be granted to "specialized state or municipal forestry enterprises, other state or municipal enterprises, institutions and organizations in which specialized divisions have been created").

The moment of occurrence of the right of permanent use is currently the moment of registration of permanent use (see Article 125 of the Law of Ukraine, Law of Ukraine "On State Registration of Real Rights to Real Estate and Their Encumbrances").

2.2. Land lease

Lease of land plots is "contract-based, fixed-term, paid ownership and use of a land plot necessary for the tenant to carry out entrepreneurial and other activities" (Article 1 of the Law of Ukraine "On Land Lease" , Article 93 of the Civil Code of Ukraine).

Land lease is a real right of exclusive, fixed-term, paid primary or secondary (sublease) land use.

Traditionally, lease is considered a mandatory right, but under the legislation of Ukraine, such a right is not only directly called real (clause 2, part 1, article 4 of the Law of Ukraine "On State Registration of Real Rights to Real Property and Their Encumbrances"), it is actually so. In particular, the right of lease is absolute and is characterized by the "right of succession". In this regard, the requirement for state registration of the right of lease is logical. What is not logical is the granting of the right of lease of a real nature, as a result of which it practically ceased to differ from emphyteusis and superficies.

It seems that the establishment of rules on lease as a real right does not prevent the establishment of binding relations of lease of a land plot at the will of the parties.

Legislation may establish special restrictions on rental objects. For example, the rental of land plots on which burials are located is prohibited (Part 1 of Article 28 of the Law of Ukraine "On Burials and Funeral Affairs").

The moment of occurrence of the right to lease land at present is the moment of

state registration of the lease agreement (Articles 126, 202 of the Land Code, Article 18 of the Law of Ukraine "On Land Lease", Clause 3, Chapter II of the Law of Ukraine dated 05.03.2009 No. 1066-VI).

2.3. Rights to other people's things (land plots)

"Traditional" rights to other people's things include land servitude (Chapter 16 of the Civil Code, Chapter 32 of the Civil Code), emphyteusis (Article 102-1 of the Civil Code, Chapter 33 of the Civil Code), and superficies (Article 102-1 of the Civil Code, Chapter 34 of the Civil Code).

Land easement is “the right of the owner or land user of a land plot to limited paid or free use of another person’s land plot(s)” (Article 98 of the Land Code).

Emphyteusis – “alienable real right to use another person’s land plot for agricultural needs” (part 1 of article 102-1 of the Civil Code of Ukraine, article 407 of the Civil Code of Ukraine). The legal regime of emphyteusis is devoted to article 102-1 of the Civil Code of Ukraine, chapter 33, articles 407-412 of the Civil Code of Ukraine.

Superficies – an alienable real right to use someone else's land plot for development (this definition follows from Part 1 of Article 102-1 of the Civil Code of Ukraine, Article 413 of the Civil Code of Ukraine). Superficies are devoted to Article 102-1 of the Civil Code of Ukraine, Chapter 34, Articles 413-417 of the Civil Code of Ukraine.

An important feature of rights to other people's things is that their list is determined exclusively by law by formulating a closed list (*numerus clausus*). Since these rights are absolute, that is, they establish an obligation for an indefinite circle of persons, these persons must be informed about the content and types of such rights by indicating them in the law.

2.4. Right to common land use

The right of general land use is not directly provided for by the land legislation of Ukraine. The Land Code contains only individual indications of the existence of

such a right - see Articles 83, 84 in the part mentioning "common land" (the right of general use extends not only to these lands). Instead, the existence of the right of general land use follows from Part 2 of Article 38 of the Law of Ukraine "On Environmental Protection":

"The legislation of Ukraine guarantees citizens the right to general use of natural resources to meet vital needs (aesthetic, health, recreational, material, etc.) free of charge, without assigning these resources to individual individuals and without granting appropriate permits, except for restrictions provided for by the legislation of Ukraine."

Thus, the right of general land use is the right of non-exclusive, unlimited, free use of land plots to meet vital needs.

The object of the right of general use is all lands of Ukraine, except for restrictions established by law. Such restrictions are provided for by the legislation of Ukraine on the NRF, defense, on the state border, transport, telecommunications, etc. For example, according to Article 16 of the Law of Ukraine "On the Nature Reserve Fund of Ukraine", "passage of unauthorized persons" is prohibited on the territory of a nature reserve, which excludes the territory of a nature reserve from the list of objects of the right of general use of land.

The object of the right of general land use is land for which the exercise of the right of general land use is not prohibited. First of all, these are lands specially designated for the exercise of the right of general land use: lands of general use of settlements (streets, squares, squares, parks, embankments, driveways, etc.), specially designated land plots within the territory of the NPF (e.g., stationary recreation zones of national natural parks - Article 21 of the Law of Ukraine "On the Natural Reserve Fund of Ukraine"), etc.

The object of the right of common land use may also be other lands, but the possibility of exercising the right of common use of them is significantly limited by the obligation not to violate the rights of other persons. For example, one cannot

exercise the right of common use on territories occupied by crops of certain agricultural crops - trampling the plants will violate the owner's right to them; one cannot break into a personal plot - this will violate the owner's right to respect for private life, etc.

The subjects of the right of general land use are citizens of Ukraine (this is directly provided for by law), as well as foreigners and stateless persons, who, as a general rule, enjoy the same rights in Ukraine as citizens of Ukraine (Article 26 of the Civil Code).

The content of the right of general land use includes only the right to use. The right of general use does not provide for the possibility of owning land plots, including the possibility of actual control over the land plot and removing other persons from using it.

The right of general use is acquired at the birth of a person and terminates upon his death and “by definition” does not require special registration. This right is inalienable. In some cases, the implementation of the right of general use is allowed only with the consent of the owners of land plots. As an example, one can cite the provisions of Part 1 of Article 17 of the Law of Ukraine “On Farming”, according to which actions regarding general land use are permitted only with the consent of the owners of land plots, or Part 2 of Article 19-1 of the Law of Ukraine “On Electric Power”, according to which access to prohibited and controlled zones of hydroelectric facilities by third parties is possible only in accordance with the procedure established by the owner of hydroelectric facilities or a body authorized by him.

3. Legal principles of land lease

The concept of "land lease" can be considered in two understandings:

- 1) as a legal title
- 2) as legal relations.

In the first sense, land lease (the right to lease land) is “the right, based on a contract, to possess and use a land plot for a fixed term, for a fee , necessary for the

lessee to carry out entrepreneurial and other activities” (Article 1 of the Law of Ukraine “On Land Lease”, Part 1 of Article 93 of the Civil Code of Ukraine). There are also doctrinal definitions of land lease (land).

The legal definition of land lease implies 4 essential conditions of the relevant contract: 1) object (land plot), 2) term, 3) fee for use, 4) method of use ("purpose"). However, in fact, Article 15 of the Law of Ukraine "On Land Lease" establishes a much broader list of essential conditions - 11. Thus, the legislative definition of a lease contract does not reflect all its essential conditions.

2) In the sense of legal relations, land lease is a legal relationship that arises in connection with the use of a land plot on a leasehold title.

A land lease agreement can also be viewed in different ways, 1) as a transaction (agreement) and 2) as a legal relationship.

The concept of a land lease agreement as a legal transaction is formulated in law: "a land lease agreement is an agreement under which the lessor is obliged to transfer a land plot to the lessee for a fee for possession and use for a certain period, and the lessee is obliged to use the land plot in accordance with the terms of the agreement and the requirements of land legislation" (Article 13 of the Law of Ukraine "On Land Lease"). However, in fact, the law provides for a number of "additional" essential terms of a land lease agreement that do not follow from either its definition or the definition of land lease.

Part 1 of Article 792 of the Civil Code formulates the concept of a land lease agreement somewhat more concisely, but essentially identically:

"Under a land lease agreement, the lessor undertakes to transfer the land plot to the lessee for the period established by the agreement for possession and use for a fee."

The form of the contract is written (Article 14 of the Law of Ukraine "On Land Lease"), the right to lease arises from the moment of its state registration (Article 125 of the Law of Ukraine).

In accordance with Part 2 of Article 14 of the Law of Ukraine “On Land Lease”,

the Resolution of the Cabinet of Ministers of Ukraine dated 03.03.2004 No. 220 approved a Model Land Lease Agreement. At the moment, the "Model Agreement" does not reflect all the essential terms of a land lease agreement defined by law. In short, it does not reflect the condition of "transfer as collateral and contribution to the statutory fund of the right to lease a land plot" (Part 1 of Article 15 of the Law of Ukraine "On Land Lease").

According to the general principle, contractual relations are built on the principles of equality of the parties, and the right to demand the conclusion of a land lease agreement with the subject arises only in cases specified by law. Thus, Part 3 of Article 27 of the Law of Ukraine "On Privatization of State Property" provides for a "priority right" of owners of "privatized objects for a long-term lease (for a period of not less than ten years) of the land plots occupied by them with the subsequent redemption of the land plots in accordance with the legislation of Ukraine, unless there is a direct prohibition of the Cabinet of Ministers of Ukraine or the relevant local council". Other cases include the preferential right to renew the contract of a tenant "who duly performed his obligations in accordance with the terms of the contract" (Part 1 of Article 33 of the Law of Ukraine "On Land Lease"), as well as the right of a permanent user to "re-register" the right of permanent use in accordance with Clause 6 of Chapter X "Transitional Provisions" of the Law of Ukraine.

List of essential terms of a land lease agreement.

According to Part 1 of Article 15 of the Law of Ukraine "On Land Lease", the essential terms of a land lease agreement are:

- lease object (cadastral number, location and size of the land plot);
- date of conclusion and term of the lease agreement;
- rent, indicating its amount, indexation, method and conditions of payments, terms, procedure for its payment and revision, and liability for its non-payment.

By agreement of the parties, the land lease agreement may specify other

conditions.

The absence of at least one essential condition in the contract "is grounds for declaring it invalid" (Part 2 of Article 15 of the Law of Ukraine "On Land Lease").

Article 19 of the Law of Ukraine "On Land Lease" provides that

"The term of the land lease agreement is determined by agreement of the parties, but cannot exceed 50 years.

When leasing agricultural land for commercial agricultural production, the term of the land lease agreement is determined taking into account the rotation period of the main crop rotation in accordance with land management projects.

When leasing agricultural land located within a mining concession granted for the development of an oil or gas field, the term of the land lease agreement is determined taking into account the terms of the start of construction of wells and production facilities related to their operation on the leased area or part thereof.

The general grounds for terminating a land lease agreement are provided for in Article 31 of the Law of the Republic of Lithuania "On Land Lease":

"The land lease agreement shall be terminated in the event of:

the expiration of the term for which it was concluded;

redemption of a land plot for public needs and forced alienation of a land plot for reasons of public necessity in accordance with the procedure established by law;

combination of the owner of the land plot and the tenant in one person;

death of an individual tenant, his/her conviction to imprisonment and refusal of the persons specified in Article 7 of this Law to fulfill the concluded land lease agreement;

liquidation of the legal entity-tenant;

alienation of the right to lease a land plot by the mortgagee;

acquisition of ownership of a residential building, building or structure located on a land plot leased by another person;

termination of an agreement concluded within the framework of a public-private

partnership (regarding land lease agreements concluded within the framework of such a partnership).

A land lease agreement shall also be terminated in other cases provided for by law.

A land lease agreement may be terminated by agreement of the parties. At the request of one of the parties, the lease agreement may be terminated early by a court decision in accordance with the procedure established by law...."

Termination of the contract by its termination occurs in accordance with the provisions of Article 32 of the Law:

"At the request of one of the parties, a land lease agreement may be terminated early by a court decision in the event of failure by the parties to fulfill their obligations under Articles 24 and 25 of this Law and the terms of the agreement, in the event of accidental destruction or damage to the leased object, which significantly impedes the use of the land plot provided for in the agreement, as well as on the grounds specified in the Land Code of Ukraine and other laws of Ukraine.

The transfer of ownership of a leased land plot to another person, as well as the reorganization of the legal entity-lessee, is not a basis for changing the terms or terminating the contract, unless otherwise provided for in the land lease contract.

Grounds for terminating a contract in court are also provided for in Articles 651, 652 (considered above when considering the grounds for amending the contract), as well as Articles 783, 784 of the Civil Code:

"Article 783. Termination of the lease agreement at the request of the lessor

1. The landlord has the right to demand termination of the lease agreement if:
 - 1) the lessee uses the thing contrary to the contract or the purpose of the thing;
 - 2) the lessee transferred the thing for use to another person without the lessor's permission;
 - 3) the tenant, through his negligent behavior, creates a threat of damage to the thing;

4) the lessee has not commenced major repairs to the thing, if the obligation to carry out major repairs was imposed on the lessee.

Article 784. Termination of the lease agreement at the request of the lessee

1. The tenant has the right to demand termination of the rental agreement if:

1) the lessor has transferred for use a thing whose quality does not comply with the terms of the contract and the purpose of the thing;

2) the lessor fails to fulfill his obligation to carry out major repairs to the thing."

Sublease of land plots is regulated by Article 774 of the Civil Code of Ukraine, Article 8 of the Law of Ukraine "On Land Lease":

"Article 8. Sublease of land plots

The leased land plot or part thereof may be transferred by the lessee to sublease without changing the intended purpose, if this is provided for in the lease agreement or with the written consent of the lessor. If the lessor does not send a written notice of its consent or objection within one month, the leased land plot or part thereof may be transferred to sublease.

The terms of the land sublease agreement must be limited to the terms of the land lease agreement and not contradict it.

The term of the sublease cannot exceed the term specified in the land lease agreement.

In the event of termination of the lease agreement, the validity of the sublease agreement for the land plot shall be terminated.

The sublease of land plots on which these forest property complexes of enterprises, institutions and organizations of state or municipal ownership, as well as those based on property belonging to the Autonomous Republic of Crimea and their structural divisions, is prohibited.....”

Test questions

1. Define land use rights.
2. Name the types of land use rights.

3. What are the specific features of land use law?
4. Define the object of land use rights.
5. What is the content of land use rights?
6. Differences between common and joint land use.
7. Stages of the emergence of land use rights.
8. Grounds for termination of land use rights.
9. Name the groups of rights and obligations of land users.
10. What is the essence of permanent land use?
11. Features of the right of permanent land use.
12. Define land lease.
13. Features of the surface.
14. What are the specifics of emphyteusis?
15. Give a legal description of the right to servitude to use someone else's land.
16. Classification of land easements.
17. Grounds and procedure for establishing and terminating a land easement.

Task

I. Solve the problems:

Task 1

An agricultural enterprise and a private entrepreneur S. concluded a lease agreement for a land plot with a total area of 2 hectares, suitable for agricultural use. Under the terms of the agreement, the lessor (enterprise) was obliged to transfer the land plot to the tenant for use within the established period. A month after the period established in the agreement, only 1.5 hectares of land was transferred to the tenant for use. In addition, the transferred land plot was completely littered, which made it impossible to use it for its intended purpose. S. filed a lawsuit with the court for early termination (termination) of the lease agreement.

How to solve this case?

From what time is a lease agreement considered concluded?

Define the scope of responsibilities of landowners and land users under a lease agreement.

Task 2

While living in the village, K. received a private land plot (2 hectares) in the prescribed manner for running a personal farm. After retirement, he lived in the regional center with his children for most of the year. In connection with this, in 2016, he and his neighbor Ya., a resident of the village, concluded a lease agreement for 5 years for the use of his land plot. According to the agreement, the tenant undertook to pay land tax, protect the residential building in the winter and annually transfer 50% of the vegetable crop harvested from the leased plot. After 2 years, K. terminated the agreement early, believing that Ya. was not fulfilling its terms in good faith. The tenant filed a lawsuit with the court to declare the unilateral termination of the lease agreement illegal.

How to solve this case?

Task 3

In 2018, 2 months before the expiration of the lease agreement for a state-owned agricultural land plot, the Vidrodzhennia Group applied with an application and a draft additional agreement to the State Geological Cadastre in Kharkiv region for its renewal. The state body refused this, citing the fact that, according to Article 134 of the Land Code of Ukraine, the provision of land plots for lease must be carried out at a land auction in order to replenish the local budgets of territorial communities. The essential terms of the lease agreement (term and amount of rent) do not comply with the legislation. In addition, the tenant lost the preemptive right, due to the fact that the land lease agreement provided for the landlord to notify the landlord of the renewal of the lease agreement for a new term three months before the expiration of the

agreement, and therefore there are no grounds for renewing the land lease agreement.

How to solve this case?

Analyze the actions of the state body and the farm, guided by the norms of the Law of Ukraine "On Land Lease".

Task 4

In January 2013, the farm concluded a lease agreement with A., who was the owner of an agricultural land plot, for 21 years, paying him the full amount of rent for the entire term of the agreement. After 7 years, A. filed a lawsuit with the court for early termination of the lease agreement. He motivated his claims by the fact that the amount of rent was determined in the agreement at 4% of the normative monetary assessment (NGO) of the value of the land plot, which had not been carried out at the time of conclusion.

The basis was taken as the NGO of the land plot for 2007. When concluding the agreement in 2013, the inflation indices for 2008–2012 were not taken into account. At the same time, the lease agreement provides for the obligation of the tenant: to pay the rent taking into account the inflation index of the NGO of the land plot, and also to make a new NGO of the land plot after 7 years to determine the reasonable amount of the rent. In 2014–2016, the NGO of the land plot increased almost twice as much due to inflation, in 2020 the tenant did not make an NGO of the land plot, and therefore the plaintiff believes that the amount he received should be credited as payment only for 6 years of use of the plot. In his opinion, he has not received rent for 2 years, in connection with which there are grounds for terminating the lease agreement, since the tenant systematically does not pay rent.

The farm did not recognize the claim, because during the term of the contract, A. did not request amendments to the land lease agreement and did not send a draft additional agreement to the tenant. The terms of the lease agreement on the new NGO of the land plot and indexation cannot be applied, because the tenant paid the rent for

the entire term of the land lease agreement in 2013.

What decision should the court make?

Name the grounds for making changes to the land lease agreement.

Specify the procedure for determining the amount of rent when concluding a land lease agreement.

How should the concept of “systematic non-payment of rent” be understood as a basis for terminating the right of use under the terms of the lease?

Task 5

B. inherited a residential building together with a personal plot of land. At the same time, the house was owned by the testator, and the land plot was in his permanent use. Having received the relevant documents on inheritance from a notary, the citizen applied to the state registrar to register the right of ownership of the property. However, he was refused registration of the right of permanent use of the land plot on the grounds that, as follows from the provisions of Art. of the Civil Code of Ukraine, he is not included in the circle of subjects of the right of permanent land use.

Believing his rights to have been violated, and motivating this by the fact that all the rights of the testator are transferred to the heir, B. filed a lawsuit with the court to recognize his right to permanent use of the personal plot of land.

How to solve this case?

Task 6

In May 2012, K., on the basis of a certificate of the right to a land share (share), concluded a land share (share) lease agreement with LLC "Mriya". In accordance with the act of acceptance and transfer, the lessor K. transferred, and the lessee accepted

into possession and use (lease) a land share (share), which is located within the boundaries of a land plot, allocated in kind by a single massif, for a period of 20 years. The specified agreement was registered in June 2012 in the book of records of registration of land share lease agreements of the village council at the location of the land share.

By order of the Regional State Administration dated 07.11.2016, K. was granted permission to prepare technical documentation on land management regarding the establishment of the boundaries of the land plot in kind (on the ground). In April 2017, K.'s ownership right to the land plot, which was formed on the basis of a land share (share) by allocating it in kind (on the ground), was registered in the State Register of Real Property Rights to Real Estate.

In the land share lease agreement, the parties did not agree on the condition that in the event of the allocation of the land plot, the land lease agreement in accordance with the state act on the right of ownership of the land plot is renegotiated on the same terms as previously concluded, and can be changed only with the consent of the parties. In this regard, K. sent the tenant - LLC "Mriya" - a statement on the termination of the contractual relationship and on the refusal to renegotiate the land lease agreement and return it.

The tenant did not agree, and therefore filed a lawsuit with the court to renegotiate the lease agreement, since the share lease agreement was concluded for 20 years. In turn, K. filed a counterclaim to terminate the land share lease agreement by terminating it due to the fact that the subject of the lease and the status of the parties to the share lease agreement had changed, and the land share does not exist, because the certificate for the land share is already invalid in accordance with the requirements of land legislation.

Solve the case.

Prepare a reasoned draft court decision.

Explain the legal nature of a land share (share) and the features of its

conversion into a land plot.

Task 7

In January 2020, the Kharkiv City Council filed a lawsuit with K. to recover from the defendant in favor of the plaintiff income in the form of rent for the period from 2016 to 2019, since the land plot with a total area of 0.20 hectares is used by the defendant in the absence of documents for the right of use under lease terms. Therefore, the defendant unjustifiably retained the property in Ukraine), because the land plot is the defendant's real estate. The owner of the land plot is a territorial community, and the defendant has been using it free of charge and without authorization since 2016.

The defendant objected to the satisfaction of the claim, arguing that the disputed land plot is home to a service station, which has been owned by him since 2016, and therefore the land plot is not unjustly acquired property within the meaning of Article 1212 of the Civil Code of Ukraine.

In addition, he took the necessary measures to formalize his right to the land plot by purchasing it in connection with the transfer of ownership of the buildings to him (Article 120 of the Land Code). During the period from 2016 to December 2017, he received a decision of the City Council to purchase the land plot, developed a land management project, received an act of approval of the boundaries of the land plot, issued a cadastral number and documents regarding the expert monetary value of the land plot for its redemption, and also paid land tax for the specified time. However, within 2 years, the plaintiff did not conclude a land purchase and sale agreement, and therefore, due to the plaintiff's fault, he does not have title documents for the land plot at the time of consideration of the case. The defendant did not apply for a land lease agreement. In this regard, the claim is not subject to satisfaction.

What decision should the court make?

Prepare a draft court decision.

Name the features of the application of land and civil legislation in the transfer of ownership of real estate.

Task 8

M. received a land plot with a total area of 20 hectares of state property for the production of agricultural products under an emphyteusis agreement for a period of 7 years. Due to his serious health condition, he decided to lease part of the land plot with an area of 8 hectares to the Rai farm for a period of 3 years.

The state notary refused to perform registration actions due to failure to comply with the legal deadline for concluding a lease agreement for a land plot for agricultural purposes. Considering their rights violated, the parties to the lease agreement filed a lawsuit with the commercial court.

Give a legal assessment of the actions of the parties.

Solve the case.

Task 9

A. and the city council concluded a 10-year superficies agreement for the construction and maintenance of a store. Within 4 years, the land plot was developed and the store was put into operation. 6 years after the conclusion of the agreement, the city council decided to buy out the specified land plot for the construction of an educational institution. A. was offered to build a new store on another land plot on the outskirts of the city.

Later it turned out that the store had not been operating for 2 years, and therefore the city council unilaterally terminated the superficies agreement and refused to provide another land plot. A. filed a lawsuit with the court to declare the city council's actions invalid.

Give a legal assessment of the actions of the parties.

What decision should the court make?

What are the grounds for terminating a superficies agreement?

Topic 4. Restrictions and encumbrances of land rights

Purpose: to check the level of students' assimilation of theoretical provisions and legal norms, to teach students to apply this knowledge when solving specific practical tasks.

Methodological recommendations: The student should operate with the following concepts: The concept of restrictions and encumbrances of land rights. General characteristics of restrictions on land rights. General characteristics of encumbrances of land rights. Land easement as a separate type of encumbrances of land rights.

Questions for discussion

1. The concept of restrictions and encumbrances of land rights.
2. General characteristics of restrictions on land rights.
3. General characteristics of land rights encumbrances.

Methodological recommendations

1. The concept of restrictions and encumbrances of land rights

Legislation often does not distinguish between the terms "restriction" and "encumbrance", sometimes they are used as synonyms. Different views on the content and relationship of the mentioned concepts exist in the specialized literature.

Civil legislation uses the term “encumbrance” and even offers its definition. According to Article 2 of the Law of Ukraine “On State Registration of Property Rights to Real Estate and Their Encumbrances”, “encumbrance is a prohibition on the disposal and/or use of real estate, which is established either by law or by acts of authorized state authorities, their officials, or which arises on the basis of contracts”. Obviously, a prohibition on the exercise of a certain right can also be considered as a restriction of a right.

The term "encumbrance" in relation to movable property is defined as "the right of the encumbrancer to the movable property of the debtor or the restriction of the right of the debtor or the encumbrancer to the movable property, arising on the basis

of law, contract, court decision or other actions of individuals and legal entities with which the law associates the emergence of rights and obligations in relation to movable property" (Part 1, Article 3 of the Law of Ukraine "On Securing Creditors' Claims and Registration of Encumbrances").

The Law of Ukraine "On the State Land Cadastre" and the Law of Ukraine "On State Registration of Real Rights to Real Estate and Their Encumbrances" established a different procedure for registering "restrictions" and "encumbrances": encumbrances of rights to land plots (except for encumbrances directly established by law) are subject to state registration in the State Register of Real Rights to Real Estate (Part 3 of Article 111 of the Law of Ukraine, Article 4, etc. of the Law of Ukraine "On State Registration of Real Rights to Real Estate and Their Encumbrances"), while restrictions on land use are subject to state registration in the State Land Cadastre (Parts 3, 4 of Article 111 of the Law of Ukraine), their validity is associated with such registration, except for cases when the restrictions are established "by law and regulatory legal acts adopted in accordance with them" (Part 4 of Article 111 of the Law of Ukraine).

In legal doctrine, there is an approach according to which encumbrances are any rights to land plots of a real nature, except for the right of ownership, while restrictions are a narrowing of the boundaries of a subjective right that does not arise from the real right of another person.

2. General characteristics of restrictions on land rights

Protection zones

Protection zones (Article 112 of the Law on Land Use) can be defined as territories with a restricted use regime established around particularly valuable and/or vulnerable objects for the purpose of their protection. Protection zones, in particular, are established around:

objects of the NRF (Articles 39, 40, etc. of the Law of Ukraine "On the Nature Reserve Fund of Ukraine");

cultural heritage sites (Part 2 of Article 54 of the Law of Ukraine, Article 32 of the Law of Ukraine “On the Protection of Cultural Heritage”);

transport facilities (Article 73 of the Law of Ukraine, Articles 11, 23 of the Law of Ukraine "On Transport", Article 6 of the Law of Ukraine "On Railway Transport", Article 11 of the Law of Ukraine "On Pipeline Transport");

communication facilities (Article 75 of the Civil Code of Ukraine, Article 10 of the Law of Ukraine “On Telecommunications”, Law of Ukraine “On Approval of the Rules for the Protection of Telecommunications Lines” dated January 29, 1996 No. 135);

energy facilities (Article 19 of the Law of Ukraine "On Electric Power Industry", Articles 18, 22-24, etc. of the Law of Ukraine "On Energy Lands and the Legal Regime of Special Zones of Energy Facilities", Law of the Republic of Ukraine "On Approval of the Rules for the Protection of Electric Networks" dated 04.03.1997 No. 209);

objects of hydrometeorological activity (Article 13 of the Law of Ukraine "On Hydrometeorological Activity", Decree of the Prime Minister of Ukraine "On Approval of the Procedure for Establishing Protection Zones Around Objects Intended for Hydrometeorological Observations and Other Types of Hydrometeorological Activity, and the Mode of Their Use" dated 11.12.1999 No. 2262);

geodetic points (Article 22 of the Law of Ukraine “On Topographical, Geodetic and Cartographic Activities”, Decree of the Government of Ukraine “On the Procedure for the Protection of Geodetic Points” dated 19.07.1999 No. 1284);

engineering communications (see paragraphs 20, 25, 28, 35, 36-2 of the Unified Rules for the Repair and Maintenance of Motorways, Streets, and Railway Crossings, Rules for Their Use and Protection, approved by the Council of Ministers of the Russian Federation dated March 30, 1994 No. 198).

The legal regime of protected zones differs depending on the object around which the zone is established, but always provides for restrictions on the possible uses

of the land plot.

Sanitary protection zones

Sanitary protection zone (water supply sources) – “ territory and water area where a special sanitary and epidemiological regime is introduced in order to prevent deterioration of water quality of sources of centralized domestic and drinking water supply, as well as to ensure the protection of water supply facilities” (Article 1 of the Code of Civil Procedure). The provisions on sanitary protection zones are contained in Articles 59, 93 and others of the Code of Civil Procedure, Article 113 of the Code of Civil Procedure, Article 18 of the Law of Ukraine “On Ensuring the Sanitary and Epidemic Well-being of the Population”, Chapter VII of the Law of Ukraine “On Drinking Water and Drinking Water Supply”, Decree of the Cabinet of Ministers of Ukraine No. 2024 of 18.12.1998 “On the Legal Regime of Sanitary Protection Zones of Water Bodies”.

Sanitary protection zones of sources and objects of centralized drinking water supply are part of water protection zones and are divided into three zones: the first zone (strict regime) includes the territory of the water supply system, the site of water supply facilities and the water supply channel; the second and third zones (restrictions and surveillance) include the territory allocated to ensure the protection of sources and objects of centralized drinking water supply (Article 35 of the Law of Ukraine "On Drinking Water and Drinking Water Supply"). The regime of different zones of sanitary protection zones of water supply sources is determined in accordance with Chapter VII of the Law of Ukraine "On Drinking Water and Drinking Water Supply", as well as the Decree of the Cabinet of Ministers of Ukraine No. 2024 "On the legal regime of sanitary protection zones of water objects" dated 18.12.1998.

Around the resorts , sanitary (mining and sanitary) protection districts are provided (Articles 30-33 and others of the Law of Ukraine "On Resorts", Article 48 of the Civil Code of Ukraine), which, in turn, are divided into zones (sanitary protection): the first (strict regime), the second (restriction zone), the third (observation zone) -

Article 30 of the Law of Ukraine "On Resorts". The establishment of the boundaries of sanitary protection zones is carried out in the order of development of land management projects.

A common feature of sanitary protection zones is the establishment of fairly strict restrictions designed to completely eliminate the possibility of contamination of water supply sources or resort areas.

Sanitary protection zones

Sanitary protection zones are territories around harmful objects with a limited land use regime, where the placement of objects related to the permanent residence of people is prohibited (this definition follows from Article 114 of the Civil Code).

Special provisions on sanitary protection zones are provided for in Article 24 of the Law of Ukraine "On Atmospheric Air Protection", Article 45 of the Law of Ukraine "On the Use of Nuclear Energy and Radiation Safety", Article 15 of the Law of Ukraine "On Mining and Processing of Uranium Ore", Article 20 of the Law of Ukraine "On Electric Power Industry", Articles 21 and 32 of the Law of Ukraine "On Energy Lands and the Legal Regime of Special Zones of Energy Facilities".

The size and features of the legal regime of sanitary protection zones are determined by legislative acts on ensuring the sanitary and epidemiological well-being of the population (primarily, sanitary norms and rules): State Sanitary Rules for Planning and Development of Settlements, approved by Order of the Ministry of Health of Ukraine No. 173 dated 06/19/1996, Clause 3 of the Rules for the Protection of Electrical Networks, approved by the Cabinet of Ministers of Ukraine No. 209 dated 03/04/1997, Order of the Ministry of Health of Ukraine "On Approval of State Sanitary Rules and Norms" No. 239 dated 08/01/1996, Clauses 3.5, 3.6. State Sanitary Rules and Norms "Hygienic Requirements for the Arrangement and Maintenance of Cemeteries in Settlements of Ukraine", approved by the Resolution of the Chief State Sanitary Doctor of Ukraine dated 07/01/1999 No. 28, etc.

The dimensions and regime of sanitary protection zones are also determined by

regulatory documents in the field of construction: DBN B.2.4-1-94 "Planning and development of rural settlements", clause 10 DBN 360-92 "Planning and development of urban and rural settlements", DBN B.2.4-3-95 "Planning and development of rural settlements. General plans of agricultural enterprises", DBN B.2.4-4-97 "Planning and development of rural settlements. Planning and development of small agricultural enterprises and peasant (farm) farms", etc.

The basis for establishing sanitary protection zones is the sanitary classification of enterprises, industries and facilities, which is given in Appendix No. 4 to the above-mentioned State Sanitary Rules for Planning and Development of Settlements. Enterprises are divided into 5 classes according to their harmfulness, according to which sanitary protection zones from 50 to 3000 m are established.

Special land use zones

Zones of special land use regime are territories with a limited use regime, which are established around military facilities for the purpose of their physical protection, as well as to protect the population from the impact of such facilities (this definition follows from Part 1 of Article 115 of the Law of Ukraine, Article 3 of the Law of Ukraine "On the Use of Defense Lands").

Article 3 of the Law of Ukraine "On the Use of Defense Lands" includes the border strip as a zone of special land use regime. The legal regime of the border strip is determined by the Law of Ukraine "On the State Border of Ukraine" (Articles 18, 22-24), as well as the Law of the Republic of Ukraine No. 1147 "On the Border Regime" dated 27.07.1998.

The already mentioned Article 3 of the Law of Ukraine "On the Use of Defense Lands" stipulates that zones with a special land use regime may be created around military units and defense facilities in order to ensure the functioning of these military units and facilities, preserve weapons, military equipment, other military property, protect the state border of Ukraine, and protect the population, economic facilities and the environment from the impact of emergencies, natural disasters and fires that may

occur at these facilities.

Other restrictions

The list of restrictions specified in Chapter 18 of the Land Code of Ukraine "Restrictions on Land Rights" and discussed above is not exhaustive. It can be continued by also highlighting the following restrictions on land rights:

special development regime zones - their regime and procedure for establishment are determined in accordance with Article 39 of the Civil Code of Ukraine, the Laws of Ukraine "On the Fundamentals of Urban Planning", "On Architectural Activity", "On Regulation of Urban Planning Activity", building norms and rules: DBN 360-92 "Planning and Development of Settlements", etc.;

water protection zones, coastal protection strips, coastal strips of waterways - the regime and procedure for establishment are determined by Chapter 12 of the Law on Water Resources, Articles 87-93 of the Law on Water Resources;

green zones – the existence of which is provided for by the Decree of the Prime Minister of the Russian Federation No. 733 dated May 16, 2007 "On Approval of the Procedure for Dividing Forests into Categories and Allocating Specially Protected Forest Areas", GOST 17.5.3.01-78 "Nature Protection. Lands. Composition and Size of Green Zones of Cities";

zones of radioactively contaminated territories – the legal regime and procedure for establishment are defined in Articles 169, 170 of the Law of Ukraine, Law of Ukraine "On the legal regime of the territory that has been subjected to radioactive contamination as a result of the Chernobyl disaster";

zones of emergency ecological situations - the concept, legal regime and procedure for declaration are provided for in Article 1 of the Law of Ukraine "On the zone of emergency ecological situation", in acts on the declaration of separate zones of emergency ecological situations: e.g., the Law of Ukraine "On the declaration of territories within the settlements of Boleslavchyk, Michurine, Pidhiria, Chausove-1, Chausove-2 of the Pervomaisky district of the Mykolaiv region as zones of emergency

ecological situation" dated 31.08.2000 No. 2039, approved by the Law of Ukraine dated 05.09.2000 No. 1931.

The above list cannot be considered exhaustive.

3. General characteristics of land rights encumbrances

Types of land encumbrances include emphyteusis , superficies , and easements.

Emphyteusis is a long-term, alienable and inheritable right to use another person's land plot for agricultural purposes. The right to use another person's land plot is established by an agreement between the owner of the land plot and the person who has expressed a desire to use this land plot for agricultural production (user).

Features of emphyteusis:

It is established by an agreement between the owner of the land plot and the person who expressed a desire to use this land plot for agricultural needs.

Can be alienated and passed on by inheritance

It cannot be alienated by its land user to other persons, contributed to the statutory fund, or pledged.

The term of the agreement on granting the right to use another person's land plot for agricultural needs is established by the agreement and for land plots of state or municipal ownership cannot exceed 50 years (Part 1, Article 408 of the Civil Code of Ukraine).

The term of the agreement on granting the right to use another person's land plot for agricultural needs is established by the agreement and for land plots of state or municipal ownership cannot exceed 50 years (Part 1 of Article 408)

Superficies is the right to use someone else's land for development, a separate type of rights to someone else's things.

Features of the surface:

The owner of a land plot has the right to grant it for use to another person for the construction of industrial, household, socio-cultural, residential and other structures and buildings (surfaces). Such a right arises on the basis of a contract or

will.

The right to use a land plot provided for development may be alienated or transferred by the land user by inheritance.

The right to use a land plot of state or municipal property for development cannot be alienated by its land user to other persons (except for cases of transfer of ownership of buildings and structures located on such a land plot), contributed to the statutory fund, or transferred as collateral.

The right may be established for a specific or indefinite period.

The term of use of a land plot of state or municipal property for development cannot exceed 50 years.

The legal regime of land easements is covered by Articles 98-102 (Chapter 16 "Land Easement Law") of the Civil Code of Ukraine, and Articles 401-406 (Chapter 32) of the Central Code of Ukraine.

The legislative definition of land easement is given in Article 98 of the Civil Code of Ukraine: "the right of land easement is the right of the owner or land user of a land plot to limited paid or free use of another person's land plot (plots)". The Civil Code of Ukraine contains the wording "the right to use another person's property (easement)" (Part 1 of Article 401 of the Civil Code of Ukraine), which does not reveal the signs of easement.

A non-exhaustive list of types of land easements is provided for in Article 99 of the Law on Land Easements:

"Article 99. Types of land easement rights

Owners or land users of land plots may request the establishment of the following land easements:

- a) right of way and bicycle travel;
- b) the right to travel by vehicle on an existing road;
- c) the right to lay and operate power transmission lines, communications, pipelines, and other linear communications;

d) the right to lay a water pipeline from another person's natural reservoir or through another person's land plot to one's land plot;

e) the right to divert water from one's land plot to or through a neighboring land plot;

e) the right to draw water from a natural reservoir located on a neighboring land plot, and the right of passage to the natural reservoir;

e) the right to water one's livestock from a natural reservoir located on a neighboring land plot, and the right to drive livestock to the natural reservoir;

g) the right to drive livestock along an existing path;

g) the right to erect scaffolding and store construction materials for the purpose of repairing buildings and structures;

h) other land easements."

Part 2 of Article 403 of the Civil Code also provides for the division of easements into those established for a certain period (fixed term) or without establishing terms (perpetual).

Article 100 of the Civil Code of Ukraine, Part 2 of Article 401 of the Civil Code of Ukraine indicate the existence of personal servitudes established in favor of a "specifically defined person." Other servitudes established in favor of the "owner (possessor) of a neighboring land plot" have received the doctrinal name of "real."

Legislation (Article 100 of the Civil Code of Ukraine, Part 1 of Article 402 of the Civil Code of Ukraine) establishes three methods of establishing easements - 1) contractual and 2) judicial, 3) by will.

When establishing an easement by agreement, it should be taken into account that in accordance with Part 2 of Article 100 of the Civil Code of Ukraine and Part 2 of Article 402 of the Civil Code of Ukraine, the agreement on establishing an easement is subject to state registration "in the manner established for state registration of rights to real estate". Such registration is provided for by the Law of Ukraine "On State Registration of Real Rights to Real Estate and Their Encumbrances.

When establishing an easement by a court, the court must resolve the dispute specifically about the conclusion of the relevant agreement. For these reasons, the easement in this case also arises from the moment of registration of the relevant agreement ("incorporated" in the court decision), and not immediately after the court decision enters into legal force.

The grounds and procedure for terminating land easements are regulated by Article 102 of the Civil Code of Ukraine, Article 406 of the Civil Code of Ukraine:

"Article 406. Termination of easement

1. The easement shall be terminated in the event of:

1) the combination in one person of the person in whose interests the easement is established and the owner of the property encumbered by the easement;

2) refusal of the person in whose interests the easement is established;

3) the expiration of the term for which the easement was established;

4) termination of the circumstance that was the basis for establishing the easement;

5) non-use of the easement for three consecutive years;

6) death of the person in whose favor a personal easement was established.

2. An easement may be terminated by a court decision at the request of the property owner in the presence of circumstances that are of significant importance.

3. The owner of a land plot has the right to demand the termination of an easement if it prevents the use of this land plot for its intended purpose.

4. The easement may be terminated in other cases established by law.

Test questions

1. The concept of restrictions and encumbrances of land rights.

2. Types of restrictions on land rights.

3. General principles for establishing restrictions on land rights.

4. Procedure for determining common boundaries of land plots.

5. General characteristics of restrictions on the use of land plots.

6. Restrictions on the right to dispose of land plots.
7. Resolution of boundary disputes.
8. Features of the use of structures and trees located on the border of land plots.
9. Permissibility and scope of restriction of other land rights by land easement.
10. Termination of restrictions on land rights.

Task

I. Prepare a report on one of the selected topics:

1. The correlation between the occurrence of grounds for termination of the easement and the moment of termination of the easement.
2. Comparative characteristics of encumbrances and restrictions on land.

II. Solve the problems:

Task 1

By decision of the regional council, a regional landscape park (hereinafter referred to as the RLP) was created in one of the districts of the region. The boundaries of this park were imposed on the lands of a gardening society (hereinafter referred to as the ST). The head of the ST concluded a cooperation agreement, according to which the society undertook to prohibit the construction and operation of buildings and structures on land plots located on the territory of the RLP, as well as to monitor the implementation of this agreement by the ST members.

The decision of the ST board stipulated that members of the society who violate these requirements must vacate the land plots belonging to them by right of ownership and use from buildings and structures.

Give a legal assessment of the actions of ST and RLP.

Is it possible to consider the terms of such an agreement as restrictions and encumbrances of land rights?

Task 2

L. filed a lawsuit with the court to remove obstacles in the exercise of the right

to use a personal plot of land. He considered such obstacles to be the actions of his neighbor G., whose poultry, constantly climbing over the fence, spoiled the planting of vegetable crops and polluted the land. In addition, the neighbor took cattle out to graze on L.'s land every morning.

The neighbor objected to the claim, motivating his position by the fact that, in accordance with land legislation, he has the opportunity to graze poultry and drive livestock on the neighboring land plot. At the same time, G. filed a counterclaim, in which he requested compensation for the cost of 12 birds that died after L. treated his land plot with herbicides, although he had no right to do so, since the personal plot of land does not belong to agricultural land.

How to solve this case?

Task 3

By decree of the President of Ukraine, a national natural park (hereinafter referred to as the NNP) was created on the territory of parts of two districts. It also includes communal lands of the village of P., with whose village council the creation of such a park was agreed upon at a session.

The administration of the National Park has prohibited the owners of land plots that have become part of it from carrying out any economic activity on the plots belonging to them. For this purpose, obstacles have been installed on economic roads, agricultural machinery is blocked, and other measures are being taken. For non-use of land plots by owners for their intended purpose, the land protection inspector has drawn up appropriate protocols.

The owners of the land plots filed a lawsuit with the court to declare the actions of the NPP administration unlawful and to declare the actions of authorized persons regarding the preparation of protocols illegal.

How to solve this case?

Task 4

By decision No. 7 of the Yuriivka Village Council of Novolyshkivskyi District,

Mykolaiv Region (hereinafter referred to as the Village Council) dated November 12, 2012, a land plot located in the Black Sea recreational zone was transferred to K. as his property.

In December 2016, the prosecutor filed a lawsuit in the interests of the state against the said village council to declare the said decision illegal and cancel it, declare the state act invalid, and reclaim the land plot.

The prosecutor referred to the fact that the land plot transferred to K. by the contested decision of the village council dated 12.11.2012 No. 7, located 25–30 m from the water's edge in the recreational zone of the Black Sea, belongs to the lands of the water fund and cannot be transferred to citizens, and the decision of the village council was made in violation of the procedure for transferring and changing the purpose of the land plot, which violates the interests of the territorial community and state interests.

Is the claim upheld?

Give a legal assessment of the legal relationship that has developed.

Task 5

In August 2017, P. filed a lawsuit with the Kyiv District Court of Kharkiv against L. and V. to establish a land easement.

The statement of claim is motivated by the fact that P. is the owner of a residential building and a land plot with an area of 0.07 hectares for the construction and maintenance of a residential building, outbuildings and structures located at the address “X”. The defendants are the owners of a neighboring land plot with an area of 0.06 hectares for the maintenance of a residential building, outbuildings and structures, also located at the address “X”. That is, the specified land plots are located nearby, and the plaintiff’s access to the house is within the same address. However, in 2011, the defendants privatized the land plot through which access to her home was provided. The access to P.’s house is blocked by a fence, so she is deprived of the right of free access to her home.

The plaintiff repeatedly asked the defendants to grant her access to the house by passing through the land plot, but she was refused. At the request of concluding an agreement on the establishment of a perpetual land easement regarding

part of the land plot for the right of permanent passage to her house through the defendants' land plot, she did not receive a response from them.

Give a legal assessment of the legal relationship that has developed.

What are the features of easement land use?

What decision should the court make?

Task 6

In March 2017, K. filed a lawsuit against M. with the Lozovsky City District Court of the Kharkiv region to eliminate obstacles to the use of the land plot. In the lawsuit, she noted that she owns two land plots for personal farming. M. (the defendant) is an adjacent land user of the plot. During the conversion of a temporary building, the defendant illegally occupied part of the plaintiff's land plot. Also, 8 trees grow on the defendant's land plot at a distance closer than 3 m from the boundary of the plaintiff's plot and 2 bushes at a distance of less than 1.0 m, which violates state building standards. In this regard, the plaintiff requested to eliminate obstacles to the use of the land plot by obliging the defendant to level the boundary between their land plots, demolish the illegally built canopy, and demolish 8 trees and 2 bushes.

How to solve the case?

How are relations regulated in terms of observing the rules of good neighborliness?

Task 7

S. was granted private ownership of a land plot for the construction and maintenance of a residential building, outbuildings and structures. Due to the fact that this land plot is located next to a 10 kV power transmission line, a restriction on its use has been established - a security zone around (along) the power system facility. S. built a garage in the security zone of the power system facility. JSC

"Kharkivoblenergo" - the owner of the power transmission line - addressed citizen S. with an order regarding the need

demolition of the garage building due to its location within a protected area.

Are the actions of JSC Kharkivoblenergo lawful?

What size Is the security zone set away from power lines?

What restrictions apply in the security zones of energy system facilities?

Task 8

R., in accordance with the procedure established by law, was granted a lease of a land plot for haymaking from the lands of the water fund, located in the coastal protective strip of the Siverskyi Donets River. R. established a summer camp for livestock on the leased land plot.

Justify the legality of establishing a summer camp for livestock.

What restrictions apply in the coastal protection zone?

Topic 5 : Legal liability for land violations

The goal is to check the level of students' mastery of theoretical provisions and legal norms, and to teach students to apply this knowledge when solving specific practical tasks.

Methodological recommendations: The student must be able to operate with the following concepts: legal liability for land offenses, land-legal liability, crimes in the field of land relations, property liability for damage caused.

Questions for discussion

1. The concept and types of legal liability for land offenses.
2. Administrative liability for land offenses.
3. Criminal liability for crimes in the field of land relations.
4. Property liability for damage caused.
5. Land and legal responsibility.
6. Compensation for losses in agricultural and forestry production.

Methodological recommendations

1. The concept and types of legal liability for land offenses

Liability for violation of land legislation is the legally prescribed adverse consequences that a person suffers for violating the provisions of a land law norm.

Legal liability for violation of land legislation:

- acts as a means of ensuring that its requirements are met
- is an important element of the mechanism for guaranteeing land rights of land owners and land users
- the norms of this legal institution stimulate compliance with the provisions of land legislation
- performs a compensatory function.

The basis for holding a person legally liable for violating land legislation is the commission of a land offense by that person.

A land offense is a socially harmful act or omission that contradicts the norms of land law, for which the guilty, tort-capable person bears legal responsibility.

Signs of land violations:

- they are always connected to the ground
- Only those offenses that are directly related to land can be classified as land offenses.

The composition of a land offense is formed by four main elements: the object, the objective side, the subject, and the subjective side of the offense.

The list of types of violations of land legislation is enshrined in Article 211 of the Civil Code of Ukraine. This list is not exhaustive.

Liability for violations of land legislation is an interdisciplinary institution. Its implementation is carried out using various types of measures of influence on offenders. The specifics of the application of these measures in each case depends on the nature of the offense and specific circumstances.

Legal liability for violation of land legislation, depending on the applied sanctions, is divided into administrative, criminal, civil, material and disciplinary. Such types of legal liability are listed in Article 92 of the Constitution of Ukraine.

2. Administrative liability for land offenses

Administrative liability for violation of land legislation is provided for by Chapter 7 of the Code of Ukraine on Administrative Offenses.

The main type of penalty is a fine.

Subjects are citizens and/or officials.

The Code of Ukraine on Administrative Offenses establishes liability for the following offenses:

- damage to agricultural and other lands, their contamination with chemical and radioactive substances, oil and oil products, untreated wastewater, industrial and other waste, as well as failure to take measures to combat weeds (Article 52);
- use of land for purposes other than its intended purpose, failure to comply with

the environmental protection regime for land use, placement, design, construction, commissioning of facilities that negatively affect the condition of the land, improper operation, destruction or damage to anti-erosion hydraulic structures, protective forest plantations (Article 53);

- distortion of data from the state land cadastre, as well as concealment of information about the condition of lands, size, number of land plots, availability of reserve lands or reserve fund (Article 53-2);

- removal and transfer of soil cover of land plots in violation of the conditions for removal, preservation and use of the fertile soil layer specified in land management documentation, or in the absence of such documentation (except for cases where, in accordance with the law, the development of land management documentation is not required) (Article 53-3);

- illegal appropriation of soil cover (surface layer) of land (Article 53-4);

- violation by an official of the Council of Ministers of the Autonomous Republic of Crimea, an executive body or a local self-government body of the deadlines established by law for considering applications (petitions) for granting permission to develop land management documentation, approval (refusal to approve) land management documentation, and provision of conclusions on land management documentation (Article 53-5);

- violation of the deadlines established by law for entering information into the State Land Cadastre, providing such information, demanding documents not provided for by law for entering information into the State Land Cadastre and for providing such information (Article 53-6);

- violation of the terms for the return of temporarily occupied lands or failure to fulfill obligations to bring them into a condition suitable for use for their intended purpose (Article 54);

- failure to rehabilitate disturbed lands (Article 54);

- deviations from duly approved land management projects (Article 55);

- destruction of land use boundary signs (Article 56);
- damage or destruction of geodetic points of the State Geodetic Network, special-purpose geodetic networks (Article 56).

3. Criminal liability for crimes in the field of land relations

Criminal liability arises for the commission of a criminal offense (criminal misdemeanor or crime) provided for by the Criminal Code and is the most severe type of legal liability.

A person may be punished by a fine, deprivation of the right to hold certain positions or engage in certain activities, restriction of liberty, or imprisonment.

Criminal liability for violation of land law is provided for in Section VIII of the Criminal Code of Ukraine and contains penalties for the following offenses:

- pollution or damage to land with substances, waste or other materials harmful to life, human health or the environment, as a result of violation of special rules, if this created a danger to life, human health or the environment (Article 239);

- illegal appropriation of soil cover (surface layer) of land, if this created a danger to life, health of people or to the environment (Article 239-1);

- illegal appropriation of the surface (soil) layer of water fund lands on a particularly large scale (Article 239-2);

- violation of established rules for the protection of subsoil, if this created a danger to life, health of people or the environment, as well as illegal extraction of minerals of local importance in a significant amount (Article 240);

- violation of the established rules for the use of subsoil, if this created a danger to life, health of people or the environment, as well as illegal extraction of minerals of local importance on a large scale or illegal extraction of minerals of national importance (Article 240);

- illegal extraction of amber, as well as the sale, purchase, storage, transfer, shipment, transportation, processing of amber, the legality of the origin of which is not confirmed by relevant documents (Article 240-1)

- uneconomic use of land, if this has caused a long-term decrease or loss of its fertility, withdrawal of land from agricultural use, washing away of the humus layer, and disruption of soil structure (Article 254);

- intentional evasion of mandatory reclamation of lands disturbed as a result of experimental and industrial development of amber deposits or amber extraction on the basis of a special permit for the use of subsoil, which caused significant damage (Article 254).

4. Property liability for land offenses

Bringing the guilty persons to administrative or criminal liability does not exempt them from civil liability, in terms of compensation for damages, in the manner and amounts established by the civil legislation of Ukraine.

Civil liability is applied for violation of property rights of subjects of land legal relations. It consists in the occurrence of adverse consequences for the violator, which are provided for by the contract or law, and satisfaction of the interests of the injured party. Thus, Article 210 of the Civil Code of Ukraine establishes that agreements concluded in violation of the procedure established by law for the purchase and sale, rent, donation, pledge, exchange of land plots are declared invalid by court decision. That is, the specified article refers to the norms of civil law, rules for concluding contracts, legal consequences and liability for violation of the procedure established by law.

Article 156 of the Civil Code of Ukraine establishes that land owners and land users shall be compensated for losses caused as a result of:

- a) withdrawal (purchase) of agricultural land, forest land and shrubs for needs not related to agricultural and forestry production;
- b) temporary occupation of agricultural land, forest land and shrubs for other uses;
- c) establishing restrictions on the use of land plots;
- d) deterioration of the quality of soil cover and other useful properties of

agricultural lands, forest lands and shrubs;

- e) rendering agricultural land, forest land and shrubs unfit for use;
- e) failure to receive income during the temporary non-use of the land plot;
- e) use of land plots for the needs of the oil and gas industry;
- h) use of land plots for subsoil use for the purpose of experimental and industrial development of amber deposits and other minerals of national importance and/or extraction of amber and other minerals of national importance.

The amount of damage caused by pollution and littering of land resources is determined in accordance with the Methodology approved by the Ministry of Environmental Protection of Ukraine dated October 27, 1997 No. 171; the amount of damage caused by failure to carry out reclamation work on disturbed lands is determined in accordance with the Resolution of the Cabinet of Ministers of Ukraine dated December 17, 2008 No. 1098; the amount of damage caused by unauthorized occupation of land plots, their use for purposes other than their intended purpose, and removal of soil cover without a special permit is determined in accordance with the special Methodology approved by the Resolution of the Cabinet of Ministers of Ukraine dated July 25, 2007 No. 963 and 11 Appendices thereto.

Test questions

1. General principles of legal liability in the land law of Ukraine.
2. What is a land offense?
3. Composition and types of land offense.
4. What is the procedure for bringing to administrative responsibility for violations of land legislation?
5. Features of property liability for land offenses.
6. What land law sanctions can be applied to offenders?
7. What does unauthorized occupation of a land plot mean?
8. Features of criminal liability for violation of land legislation.
9. What crimes in the field of land relations are subject to criminal liability?

Task

I. Analyze the articles of the normative legal acts listed in the table, determine the type and composition of the land offense.

| Ukrainian legislation | Type of offense | Elements of the offense |
|--|-----------------|-------------------------|
| Article 52 of the Code of Ukraine on Administrative Offenses | | |
| Article 53 of the Code of Ukraine on Administrative Offenses | | |
| Article 54 of the Code of Ukraine on Administrative Offenses | | |
| Article 55 of the Code of Ukraine on Administrative Offenses | | |
| Article 239 of the Criminal Code of Ukraine | | |
| Article 253 of the Criminal Code of Ukraine | | |

II. Solve the problems:

Task 1

The regional department of Ukrburgazprom applied to the Mykolaiv district state administration with a request to issue a permit that would provide the department's employees with unhindered access at any time of the year to service the underground main pipeline passing within the distributed agricultural lands of the district. The district administration refused to issue such a permit, citing the fact that: 1) this is a personal matter of the owners of land plots (shares), in whose activities it is prohibited to interfere; 2) these lands no longer belong to the state property, and the legal regime of their use by the services of Ukrburgazprom is reliably ensured by the regime of pipeline protection zones established by law.

Provide a legal opinion.

Task 2

L. applied to the village council with a request to transfer to her private ownership a personal plot of land with an area of 0.35 hectares, which is in her use. The village council made a corresponding decision to privatize the land plot, and the land management organization allocated the specified plot on the territory. After L.'s death, her son applied to the notary with a request to issue a certificate of inheritance

for the specified land plot. The notary refused to perform such an action, considering the testator to be the wrongful owner of the specified land plot.

Analyze the legality of the notary's actions.

Task 3

The owner of the land plot B. filed a complaint with the court against the actions of the owner of the neighboring land plot V., who systematically burned household garbage and leaves within his land plot, filling neighboring land plots with smoke. B. repeatedly made remarks to the neighbor, but the neighbor did not even try to correct the situation and stop the above actions.

What are the obligations of owners and users of land plots arising from the rules of good neighborliness?

Task 4

At the general meeting of the gardening cooperative "Mriya" the issue of bringing to justice the member of the society S., who stopped using his garden plot, was considered. The plot was overgrown with grassy vegetation, which negatively affects the development of cultivated plants, leads to the spread of pests and diseases that spread to neighboring plots. S. noted that his plot is used for recreation according to the law, and since he is its owner, he has the right to use it at his discretion.

Is there any liability for S.'s actions?

Define the concept of "land trespass".

Task 5

In the same yard as S., in the summer kitchen, which is used as a living space, lives K., her ex-husband. In his part of the yard, he has built a cesspool and a toilet 15 meters from the well. As a result of improper maintenance of the toilet and cesspool, part of the land plot and the well are polluted. This creates inconvenience for S., as she is forced to carry water from neighbors for drinking purposes. K. does not want to resolve the issue of moving the toilet voluntarily. Having applied to the court, S. requested that K. be ordered to dismantle the toilet and cesspool. Since the defendant

uses the neighboring land plot for personal farming, he can easily build a toilet within its boundaries.

Give a legal opinion.

Task 6

The Oster City Council has repeatedly received verbal and written complaints from city residents regarding the fact that a resident of a private house, R., installed a fence in such a way that it significantly reduced the width of the street. This interferes with neighbors and road users and may cause unpredictable consequences.

Solve the case.

Task 7

In September 2020, the city council filed a lawsuit with the commercial court against the individual entrepreneur Hordienko for compensation for damages in the amount of UAH 500,000 on the grounds that the defendant, having acquired ownership of the non-residential premises of the Oscar hotel complex, did not properly register the right to use the land plot on which the real estate object is located. A land lease agreement was not concluded, as a result of which, in the opinion of the city council, the territorial community of the city suffered losses in the amount of UAH 500,000 in the form of lost profits. The plaintiff's claim to the commercial court was denied due to violation of the rules of subject jurisdiction.

Determine the jurisdiction of the land dispute.

How to solve this case?

Task 8

By decision of the city council, K. was granted a land plot. K. registered his ownership of the land plot as a personal plot in accordance with the law. Subsequently, he built a residential building on his own land plot and built a brick fence around the house, taking it outside the boundaries of his land plot, which led to a narrowing of the roadway of the street. As a result, the territorial body of the State Ecological Inspectorate of Ukraine received an appeal from citizens - owners of neighboring land

plots - with a request to carry out a control inspection of this development, since the fence interferes with the passage of vehicles along the street.

Did K. violate the norms of land legislation?

Will K.'s actions be considered an unauthorized occupation of the land plot?

What type of legal liability is provided for such actions?

Solve the case.

Task 9

When transferring a three-room apartment on the first floor of an apartment building from a residential building to a non-residential building, the owner built a separate entrance to the building from the street. He applied to the city council for permission to do so and to approve the technical documentation for the porch, which was part of the entrance. The city council refused to grant permission and approve the documentation. At the same time, it obliged the owner of the non-residential building to lease the land plot where the porch was located. Believing that his rights had been violated, the owner of the non-residential building applied to the court with a claim for the allocation of his part of the land plot for servicing the apartment building from the joint property of the residents of this building.

Are the actions of the city council lawful?

What decision should the court make?

Task 10

In 2009, the head of the farm concluded lease agreements for agricultural land with residents of the village of Ruska Lozova. The farm grew corn on the leased land. However, in 2018, corn yields dropped sharply due to soil depletion (soil depletion). In order to increase the yield, the head of the farm decided to treat the land with chemical fertilizers and pesticides. Warehouses were built on the territory of one of the leased land plots to store chemical residues. Due to heavy rain in the fall of 2019, pesticides spilled and got into the soil in large quantities. After that, the head of the farm ordered workers to remove the contaminated soil layer from the surface of the

earth and take it to the forest.

What norms of land protection legislation did the head of the Federal Government violate?

What organizational and legal measures are provided for by law to prevent soil depletion on agricultural lands?

Task 11

The Berdyansk City Council received a request from D. for permission to develop technical documentation on land management regarding the establishment of the boundaries of a land plot in kind (on the ground) with an approximate area of 0.0982 hectares, located at ul. Pryazovska, building 18, for the construction and maintenance of a residential building, outbuildings and structures (homestead land plot). The request was considered at a meeting of the Berdyansk City Council session. During the consideration, it was established that D. did not provide copies of documents certifying the right of ownership to real estate located on the specified land plot. In addition, this land plot partially fell into a two-kilometer coastal protective strip along the Sea of Azov.

Prepare a draft decision for the Berdyansk City Council session.

What is the procedure for determining the size and boundaries of water protection zones and coastal protection strips?

What is the procedure for developing a land management project and allocating water protection zones and coastal protection strips based on it?

Task 12

The municipal enterprise “Ekores” carried out unauthorized collection and removal of household waste in the settlements of Dergachiv district of Kharkiv region. For the service that the municipal enterprise provided to local residents, the latter were charged a fee. The municipal enterprise “Ekores” placed solid household waste in the forest area located near one of the settlements of the district. Local residents applied to the district prosecutor with a request to conduct a control inspection of the activities

of the municipal enterprise “Ekores”. The prosecutor refused the applicants to conduct inspections, citing the lack of relevant authorities.

Solve the case.

What norms of land protection legislation were violated by the Ecores enterprise?

Identify the range of entities authorized to exercise state control over the use and protection of lands, compliance with the legislation of Ukraine on land protection.

Task 13

A military unit located a warehouse of construction materials in a forest park zone, illegally occupying about 2 hectares of land. The state inspector in the field of state control over the use and protection of lands and compliance with the requirements of the legislation on land protection of the State Geocadastre Department in Kharkiv region demanded that the military unit demolish the buildings. The inspector justified his orders by prohibiting any construction on illegally occupied land plots. The command of the military unit did not comply with the inspector's demand, citing the fact that the land plot is unclaimed, ownerless and not registered under any entity. Subsequently, the military unit filed a lawsuit in court to protect its rights.

Decide the case on its merits as a judge.

CONTENT MODULE 2

Topic 6. Legal principles of acquiring land ownership

The goal is to check the level of students' mastery of theoretical provisions and legal norms, and to teach students to apply this knowledge when solving specific practical tasks.

Methodological recommendations: The student must be able to operate with the following concepts: Concepts and legal models of privatization. Privatization of land plots from reserve lands (full model). Privatization of land plots previously provided for use by citizens (simplified model). Privatization of land plots by legal entities. Features of privatization of land plots for maintaining financial statements.

Questions for discussion

1. Concept and legal models of land privatization.
2. Privatization of land plots in the order of allocation ("full model").
3. Privatization of land plots provided for use ("simplified model").
4. Privatization of land plots by legal entities.
5. Features of privatization of land plots for farming.
6. State registration of land plots.

Methodological recommendations

1. The concept and legal nature of land privatization

Privatization of land plots occupies an important place in the reform of land legal relations. In Ukraine, it began with the adoption of the Law of Ukraine "On

Forms of Land Ownership" and the new edition (dated March 13, 1992) of the Land Code of Ukraine of 1990 and continues to this day.

Neither in legislation nor in legal doctrine has a single understanding (let alone the concept) of land privatization been finally established. Existing points of view can be conditionally divided into broad and narrow approaches.

A broad approach involves considering privatization as the alienation of property that is in state (municipal) ownership in favor of individuals and legal entities. This definition is enshrined in Article 1 of the Law of Ukraine "On the Privatization of State Property", which refers to the objects of privatization "land plots on which objects subject to privatization are located" (Part 1 of Article 5). Based on this understanding, the norms of Article 4 and others of the Law of Ukraine "On the Features of the Privatization of Unfinished Construction Objects" (which also provides for the privatization of land plots), as well as some decrees of the President of Ukraine on land issues, are also set out.

In a narrow approach, privatization is viewed as a free, one-time (within established norms) alienation of land plots of state and municipal property exclusively to citizens.

In the theory of land law, it is customary to distinguish different "models" of land privatization. Taking into account the current state of land legislation, it is advisable to distinguish the following models or procedures:

- 1) a complete model (procedure) – privatization of land plots in the order of allocation;
- 2) a simplified model (procedure) – privatization of land plots that were previously provided for use to persons wishing to privatize them (applicants);
- 3) privatization of land plots by collectives of citizens (in essence, legal entities);
- 4) privatization of land plots for the management of financial institutions.

2. Legal models of land privatization

Privatization of land plots in the order of allocation ("full model")

The “full” privatization procedure is used when obtaining land plots for 1) maintaining a family farm, 2) a separate household, 3) gardening, 4) construction and maintenance of a residential building, outbuildings and structures (homestead plot), 5) individual summer cottage construction, 6) construction of individual garages (Part 6 of Article 118, Article 121 of the Land Code of Ukraine), as well as 7) when privatizing land plots in the amount of land shares (shares) by citizens of Ukraine evacuated from the exclusion zone, resettled from the zone of unconditional (mandatory) or the zone of guaranteed voluntary resettlement, as well as those who independently resettled from territories that were subjected to radioactive contamination, and who at the time of evacuation, resettlement or independent resettlement were members of collective or other agricultural enterprises, as well as pensioners from among them who live in rural areas (the right to privatization of these persons is provided for in Article 1 of the Law of Ukraine “On the Procedure for Allocating Land in in kind (on the ground) of land plots to owners of land shares (shares)”, Part 3 of Article 35 of the Law of Ukraine “On the social and legal status of persons affected by the Chernobyl NPP accident”). Regarding the last type of privatization of land plots, there is no direct indication regarding the extension of the procedure provided for in Article 118 of the Law of Ukraine to it, but there is no alternative to the application of this procedure.

In certain cases, legislation in one form or another provides for a preferential right to obtain land plots for the following categories of persons:

war veterans: they are provided with priority allocation of land plots for individual housing construction, gardening and horticulture - see the Law of Ukraine "On the Status of War Veterans, Guarantees of Their Social Protection", clause 14, part 1 , article 12, paragraph 2, clause 18, part 1, article 13, paragraph 1, article 14, paragraph 2, clause 15, part 1, article 15;

citizens affected by the Chernobyl disaster: clause 20, part 1, article 20, clause

1, part 1, article 21 of the Law of Ukraine "On the Status and Social Protection of Citizens Affected by the Chernobyl Disaster" provide for a benefit for citizens classified as categories 1, 2, in the form of mandatory "(within a year after submitting an application) allocation by local councils of land plots for individual housing construction for those who need improved housing conditions and are on the housing register, as well as allocation of land plots for conducting personal subsidiary farming, gardening and horticulture, construction of individual garages and dachas"; part 4, article 32 of the Law provides for the right of citizens who have been evacuated, resettled (are being resettled) or have resettled independently, "to individual housing construction with extraordinary receipt of land plots ...";

labor veterans – clause 7 of article 7 of the Law of Ukraine “On the Basic Principles of Social Protection of Labor Veterans and Other Elderly Citizens in Ukraine” provides for “the preferential right to ... the allocation of land plots for individual housing construction, gardening and horticulture ...”;

disabled people with diseases of the musculoskeletal system - Part 5, Article 30 of the Law of Ukraine “On the Fundamentals of Social Protection of Disabled People” dated March 21, 1991 provides that “local government bodies shall ensure the allocation of land plots ... for the construction of garages for manually operated cars near their place of residence.”

The main stages of the complete procedure:

filing a petition to “the relevant executive body or local government body that transfers land plots of state or municipal property into ownership. The petition shall indicate the intended purpose of the land plot and its approximate dimensions. Copies of the cadastral map (plan) or other graphic materials indicating the desired location shall be attached to the petition ... If the land plot of state property is located outside the boundaries of settlements and is not part of a certain district, the application shall be submitted to the Council of Ministers of the Autonomous Republic of Crimea.” (Part 6, Article 118 of the Law of Ukraine).

consideration by the relevant authority of the "application within a month" and granting permission to develop a land management project for the allocation of a land plot or adopting a "motivated decision on refusal" (Part 7, Article 118 of the Land Code).

order (by the applicant) and preparation of a land management project for the allocation of a land plot (Part 7 of Article 118 of the Law of Ukraine on Land Management, Article 50 of the Law of Ukraine "On Land Management"). The production period is regulated by the contract (taking into account the established 6-month deadline for preparing land management documentation, clause "d" of Part 2 of Article 28 of the Law of Ukraine "On Land Management"). The standard contract for the development of the project was approved by the Decree of the Cabinet of Ministers of Ukraine No. 266 dated 04.03.2004.

approval of the land management project in accordance with Article 186-1 of the Land Management Code.

The land management project for the allocation of land plots of all categories and forms of ownership is subject to mandatory approval by the territorial body of the central executive body implementing state policy in the field of land relations.

state land management expertise of the project (the need for such expertise in the case of "allocation of land plots of especially valuable land, land for forestry purposes, as well as land of the water fund, nature conservation, health, recreational and historical and cultural purposes" is provided for in Article 9 of the Law of Ukraine "On State Expertise of Land Management Documentation"). The procedure for conducting the expertise is determined by the Law of Ukraine "On State Expertise of Land Management Documentation" and the order of the State Committee for Land Management of Ukraine dated 03.12.2004 No. 391 "On Approval of the Methodology for Conducting State Expertise of Land Management Documentation";

approval of the project by the relevant council or administration (within two weeks) (Part 9, Article 118 of the Law on Land Use), which is simultaneously a

decision to transfer the land plot into the ownership of the applicant;

state registration of a land plot (Article 79-1 of the Land Code of Ukraine, Article 24 of the Law of Ukraine “On the State Land Cadastre”). According to Part 1 of Article 16 of the Law of Ukraine “On State Registration of Real Rights to Real Estate and Their Encumbrances”, “an application for state registration of ownership rights to a land plot, the right to lease a land plot of state or municipal property, upon a written application by the rightful acquirer, may be submitted by the state cadastral registrar who carried out the state registration of such a land plot”;

state registration of the right of ownership of a land plot by the acquirer (applicant). According to Article 125 of the Civil Code of Ukraine, the right of ownership of a land plot arises “from the moment of state registration” of this right. The legal principles of registration are determined by the Law of Ukraine “On State Registration of Real Rights to Real Estate and Their Encumbrances”.

Privatization of land plots provided for use ("simplified model")

Due to the fact that the land plot is determined in kind, under this procedure (theoretically) there is no need to order, develop, agree, approve, and transfer the allotment project to the nature, which greatly simplifies privatization.

The procedure has the following stages:

submitting an application with attached technical materials and documents confirming the size of the land plot to the relevant council, administration or RM of the ARC (parts 1, 2 of article 118 of the Land Code);

Technical materials and documents confirming the size of the land plot are BTI data, documents certifying land rights (extracts from registration, household, land cord books, etc.).

consideration of the application by the relevant authority (within a month) and adoption of a decision on the privatization of the land plot (Part 2 of Article 118 of the Law on Land Use);

state registration of land plot

registration of ownership of a land plot.

Privatization of land plots by legal entities

The possibility of transferring land plots free of charge to private ownership is provided for the following types of legal entities:

horticultural societies – Part 4, Article 35 of the Law of Ukraine. By their legal nature, horticultural societies (horticultural cooperatives) are service organizations and operate in accordance with the Law of Ukraine “On Cooperation”; there are also cases of horticultural societies being established as public organizations in accordance with the Law of Ukraine “On Associations of Citizens”;

dacha cooperatives – part 2 of article 52 of the Civil Code of Ukraine;

housing and construction (housing) and garage construction cooperatives – Part 1, Article 41 of the Civil Code of Ukraine;

associations of co-owners of apartment buildings (OSBB) – Part 2, Article 42 of the Housing Code of Ukraine. Regarding the concept and status of OSBB, see Part 3, Article 10 of the Law of Ukraine “On the Privatization of the State Housing Fund” dated June 19, 1992, and the Law of Ukraine “On Associations of Co-owners of Apartment Buildings” dated November 29, 2001.

Features of privatization of land plots for farming

The procedure for providing land plots for managing a farm basically coincides with the so-called "full model" (theoretically, there are possible cases when it is carried out on the basis of a simplified procedure), with the exception of the following features:

An applicant for a land plot, together with the application, must submit “documents confirming experience in agriculture or education obtained at an agricultural educational institution” (Part 1, Article 7 of the Law of Ukraine “On Farming”, Part 6, Article 118 of the Law of Ukraine); it follows from the context that in the absence of such documents, the land plot should not be provided;

When resolving the issue in court, the court's decision is the basis for allocating

a land plot in kind (Part 4, Article 7 of the Law of Ukraine "On Farming").

3. Acquisition of ownership of land plots under civil law agreements

The right of ownership of land plots can be acquired on the basis of contracts of sale, exchange, rent, donation, life maintenance, in mortgage relations, inheritance. There are no obstacles to the alienation of land plots on the basis of other contracts (agreements, transactions), including those not provided for by law.

General requirements for the content of agreements. Part 2 of Article 132 of the Law on Land Acquisition stipulates that agreements on the alienation of land plots, regardless of their type, must specify:

- "a) the name of the parties (surname, first name and patronymic of the citizen, name of the legal entity);
- b) type of transaction;
- c) the subject of the land (land plot with a definition of location, area, intended purpose, composition of the land, legal regime, etc.);
- d) a document confirming ownership of the land plot;
- e) information about the absence of prohibitions on the alienation of the land plot;
- e) information about the absence or presence of restrictions on the use of the land plot for its intended purpose (pledge, lease, easements, etc.);
- e) contract price;
- h) rights and obligations of the parties;
- g) cadastral number of the land plot;
- h) the moment of transfer of ownership of the land plot.

The procedure for the emergence of ownership rights under an agreement. The general procedure for the emergence (transfer) of ownership rights to land plots under civil law agreements includes:

conclusion of a written notarial form of an agreement (parts 1, 4 of article 132 of the Civil Code of Ukraine). Notarial certification of an agreement is regulated by

the Law of the Republic of Ukraine "On Notaries" dated 02.09.1993, the Instruction on the procedure for performing notarial acts by notaries of Ukraine, approved by order of the Ministry of Justice of Ukraine dated 22.02.2012 No. 296/5;

registration of ownership rights (by a notary certifying the transaction) in accordance with the Law of Ukraine "On State Registration of Real Rights to Real Estate and Their Encumbrances". It is from the moment of such registration that the right of ownership to the land plot arises (Article 125 of the Civil Code of Ukraine).

Land purchase and sale agreement

Relations on the purchase and sale of land plots are subject to the general provisions of civil law (Chapter 54 of the Civil Code). According to Article 655 of the Civil Code,

"1. Under a purchase and sale agreement, one party (the seller) transfers or undertakes to transfer property (goods) into the ownership of the other party (the buyer), and the buyer accepts or undertakes to accept the property (goods) and pay a certain amount of money for it."

Article 657 of the Civil Code contains rules (duplicated in Part 1, Article 4 of the Civil Code) regarding notarization of a land purchase and sale agreement.

It should be remembered that Part 1 of Article 130 of the Law on Agricultural Land limits the circle of buyers of land plots for conducting commercial agricultural production. They may be:

"a) citizens of Ukraine who have agricultural education or experience in agriculture or are engaged in commercial agricultural production;

b) legal entities of Ukraine, the constituent documents of which provide for the conduct of agricultural production.

The features of the purchase and sale of land plots of state or municipal ownership, as well as the features of the redemption of land plots of private ownership for public needs, are considered in the following questions of this topic.

The features of the sale by the mortgagee of the subject of the mortgage

(especially if such a right is provided for by the agreement on satisfaction of the mortgagee's claims or by a court decision) are regulated by Article 38 of the Law of Ukraine "On Mortgage".

Land exchange agreement

According to Article 715 of the Civil Code,

"1. Under a barter agreement, each party undertakes to transfer ownership of one good to the other party in exchange for another good.

2. Each party to a barter agreement is the seller of the goods he transfers in exchange and the buyer of the goods he receives in return.

3. The contract may establish a surcharge for goods of higher value exchanged for goods of lower value.

4. The right of ownership of the exchanged goods shall pass to the parties simultaneously after the fulfillment of the obligations to transfer the property by both parties, unless otherwise established by the contract or law.

5. The contract may establish the exchange of property for works (services).

The provisions of Part 4 of Article 715 of the Civil Code of Ukraine regarding the simultaneous transfer of ownership after the fulfillment of obligations to transfer property by both parties should be applied taking into account the special rules regarding the moment of emergence of ownership of a land plot (Article 125 of the Civil Code of Ukraine).

To the exchange relations, including land plots for other property, as well as the exchange of land plots (one plots for another) "the general provisions on the sale and purchase, the provisions on the supply contract, the contracting contract or other contracts, the elements of which are contained in the exchange contract, are applied, unless this contradicts the essence of the obligation" (Article 716 of the Civil Code of Ukraine). For a description of the legal regulation of the sale and purchase relations of land plots, see above.

Land rent agreement

The current civil legislation of Ukraine provides for the possibility of alienation of land plots under a rent agreement (Chapter 56 of the Civil Code of Ukraine). According to Part 1 of Article 731 of the Civil Code of Ukraine,

"1. Under a rent agreement, one party (the rent recipient) transfers ownership of property to the other party (the rent payer), and the rent payer, in return, undertakes to periodically pay the rent recipient a certain amount of money or in another form."

The rules on purchase and sale (if property is transferred to the ownership of the rent payer for a fee) or donation (if property is transferred free of charge) may apply to rent relations – Part 2 of Article 734 of the Civil Code of Ukraine. The rules on securing the payment of rent are established (Article 735 of the Code):

"1. In the event of the transfer of a land plot or other immovable property for the payment of rent, the rent recipient acquires the right to a pledge on this property.

2. The rent payer has the right to alienate property transferred to him for the payment of rent only with the consent of the rent recipient.

In the event of the alienation of real estate to another person, the obligations of the rent payer are transferred to that person.

3. The payment of rent may be ensured by establishing the obligation of the rent payer to insure against the risk of his failure to fulfill his obligations under the rent agreement.

Land donation agreement

The provisions regulating the relationship of gift are contained in Article 55 of the Civil Code. According to Article 717 of the Civil Code,

"1. Under a gift agreement, one party (the donor) transfers or undertakes to transfer in the future to the other party (the donee) property (gift) in ownership free of charge."

Part 2 of Article 719 duplicates the rule of the Civil Code of Ukraine regarding the need for notarization of the contract of donation of a land plot as real estate.

The CCU establishes some restrictions on the parties to a gift agreement (Article

720), provides for the possibility of establishing an obligation of the donee in favor of a third party (Article 725) and the legal consequences of violating this obligation (Article 726). In certain cases, a gift agreement may be terminated at the request of the donor (Articles 727, 728). The Code provides for a donation as a type of gift agreement (Article 729): the donation of immovable and movable property, including money and securities, to achieve a certain, predetermined goal.

According to Part 1 of Article 722 of the Civil Code, the donee's right to a gift arises from the moment of its acceptance. This norm should be applied taking into account the special rules regarding the moment of the emergence of the right of ownership of a land plot (Article 125 of the Civil Code).

Land inheritance agreement

Inheritance relations are regulated by Book Six of the CCU "Inheritance Law". According to Article 1216 of the CCU,

"1. Inheritance is the transfer of rights and obligations (inheritance) from a deceased individual (testator) to other individuals (heirs)."

Inheritance is carried out by will or by law. Both types of inheritance are regulated in detail by the Central Code of Civil Procedure.

Registration of land ownership rights (see above) upon inheritance is carried out by notaries who issue certificates of the right to inheritance. The grounds and procedure for issuing such certificates are regulated by the Law of Ukraine "On Notaries" (Chapter 7, Articles 66-69), as well as the Instructions on the procedure for performing notarial acts by notaries of Ukraine, approved by the order of the Ministry of Justice of Ukraine dated 22.02.2012 No. 296/5.

According to Part 5 of Article 1268 of the Civil Code, the inheritance "belongs to the heir from the moment of opening the inheritance" (i.e. from the day of the testator's death or the day of his declaration as deceased – Article 1220 of the Civil Code). According to Part 2 of Article 1299 of the Civil Code, "the right of ownership of real estate arises for the heir from the moment of registration of this property."

Acquisition of ownership of land plots in mortgage legal relations

"A mortgage is a pledge of real estate that remains in the possession of the pledgor or a third party" (Part 1, Article 575 of the Civil Code).

According to Article 1 of the Law of Ukraine "On Mortgage",

"mortgage - a type of security for the performance of an obligation by real estate that remains in the possession and use of the mortgagor, according to which the mortgagee has the right, in the event of the debtor's failure to perform the obligation secured by the mortgage, to obtain satisfaction of his claims at the expense of the subject of the mortgage, primarily from other creditors of this debtor in accordance with the procedure established by this Law."

Land mortgage relations are regulated by Articles 572-593 of the Civil Code of Ukraine, the Law of Ukraine "On Mortgage" (only general provisions apply to land mortgages), the Law of Ukraine "On Mortgage" (the specific features of land mortgages are provided for in Parts 4-6 of Article 6, Article 15), as well as Article 133 of the Civil Code of Ukraine (Part 4 provides, in particular, that "only banks can be mortgagees of agricultural land plots and rights to them").

According to Part 1 of Article 18 of the Law of Ukraine "On Mortgage", a mortgage agreement "shall be concluded in writing and shall be subject to notarial certification". From the moment of notarial certification, the agreement shall enter into force, however, the mortgage encumbrance shall also be subject to state registration, after which it shall take priority over the registered rights or claims of other persons to the mortgaged immovable property (Part 1 of Article 4 of the Law, the provisions on registration are also enshrined in Part 1 of Article 182, Part 2 of Article 577 of the Central Code of Civil Procedure, Part 2 of Article 111 of the Civil Procedure Law of Ukraine "On State Registration of Real Rights to Immovable Property and Their Encumbrances").

Special requirements for the content of a mortgage agreement are formulated in Part 1 of Article 18 of the Law of Ukraine "On Mortgage"

Foreclosure on the mortgaged object is carried out (1) on the basis of a court decision, (2) an executive inscription of a notary, or (3) in accordance with an agreement on satisfaction of the mortgagee's claims (Part 3 of Article 33 of the Law of Ukraine "On Mortgage").

In the first and second cases, the land plot is subject to sale "at public auction within the framework of the enforcement procedure provided for by the Law of Ukraine "On Enforcement Proceedings" (Part 1, Article 41 of the Law of Ukraine "On Mortgage").

The third case concerns the so-called out-of-court settlement, which "is carried out in accordance with the clause on satisfaction of the mortgagee's claims contained in the mortgage agreement, or in accordance with a separate agreement between the mortgagor and the mortgagee on satisfaction of the mortgagee's claims, which is subject to notarial certification, which may be concluded simultaneously with the mortgage agreement or at any time before the court's decision on foreclosure on the mortgaged property enters into legal force" (Part 1, Article 36 of the Law of Ukraine "On Mortgage").

An agreement on satisfaction of the mortgagee's claims may provide for (1) the transfer to the mortgagee of ownership of the mortgaged object in consideration of the fulfillment of the main obligation or (2) the right of the mortgagee to sell the mortgaged object on his own behalf to any person on the basis of a purchase and sale agreement (Part 3 of Article 36 of the Law of Ukraine "On Mortgage").

4. Features of acquiring ownership of municipal and state-owned land plots under civil law agreements

The rules on the disposal of state and municipal lands are formulated in such a way as to exclude the alienation of these lands in a manner not expressly provided for by law. In view of this, in our opinion, land plots of state and municipal property are alienated exclusively under purchase and sale agreements, and, in cases expressly provided for by law, mines (Part 1 of Article 12 of the Law of Ukraine "On the

Alienation of Land Plots, Other Real Estate Objects Located on Them, Which Are in Private Ownership, for Public Needs or for Motives of Public Necessity"). The legislation does not provide for the possibility of alienation of land plots under other agreements.

NB. Agreements with land plots that are in state or municipal ownership are sometimes called public law in legal doctrine¹. A public law agreement is defined as a legal act - an agreement of an organizational and regulatory nature, under which one party assumes certain obligations defined by the agreement, and the other party (a public law entity) undertakes to exercise certain public powers within its competence in the interests of the counterparty or to transfer (delegate) the right to exercise them. Meanwhile, existing domestic judicial practice is not inclined to consider agreements with land plots in state (municipal) ownership as administrative agreements within the meaning of the Code of Administrative Offenses (see, in particular, clause 14 of Article 3).\

Test questions

1. The legal nature of land privatization.
2. Define the concept of land privatization and name its main features.
3. What is the subject composition of land privatization?
4. Features of land privatization objects.
5. Describe the forms of land privatization.
6. What restrictions are imposed on land privatization?
7. Features of privatization of agricultural lands.
8. What are the specifics of land privatization by citizens?
9. What are the features of the privatization of specially protected lands?
10. Legal guarantees for land privatization.

Task

I. Prepare a report on one of the following topics:

1. Legal regulation and ways to improve the privatization of land plots;
2. The procedure for privatization of a land plot within the norms of free privatization.

II. Solve the problems:**Task 1**

The farm "Nadiya" in the village of Rogozyanka purchased a non-residential building, which was later put into operation as a grocery store. The head of the farm applied to the village council with a request to transfer a land plot of 0.25 hectares to his wife, as a member of the farm, free of charge into private ownership for servicing the store, in return for a land share (share). The request was based on the provisions of Article 13 of the Law of Ukraine "On Farming". The village council refused to grant the request, citing the fact that the land plot is located in the very center of the village, and the land of the farm is outside the settlement. The head of the farm applied to the local court with a corresponding claim.

Give a conclusion on the case.

Task 2

The city council decided to allocate a land plot for construction in the green zone of the city to the garage and construction cooperative "Shlyakh". The cooperative began cutting down trees, building access roads, and importing the necessary construction materials. A group of citizens put forward demands to stop the construction and cancel the council's decision to allocate the land plot, citing the fact that the population was not informed in advance about the development, public opinion was not taken into account, and there is no positive conclusion of the environmental examination.

Which body should Roma people turn to to resolve their dispute?

How to solve the case?

Task 3

N. decided to start a business - manufacturing metal-plastic structures. To do this, he needed a plot of land, which N. wanted to acquire free of charge. The entrepreneur applied to the city council, but was refused, citing the lack of free industrial land in the city.

After consulting with a human rights activist friend, N. applied to the district state administration with a request to provide him, as a citizen, with a land plot from state ownership, but he was also refused there, citing the fact that there were no industrial lands among the state-owned lands within the settlement.

N. filed an administrative lawsuit in court, in which he tried to challenge the relevant decisions of the City Council and the District State Administration. In the trial, a representative of the City Council stated that there are currently no vacant lands in respect of which a decision has been made to transfer them into ownership.

What decision will the court make?

Is it possible to force state authorities and local governments to transfer a land plot to a citizen free of charge?

Task 4

V. purchased a two-room apartment in a two-apartment, one-story cottage-type house. Later, he received permission and added a living space to this apartment, consisting of a room and a kitchen. The two living rooms, together with the non-residential premises that he had purchased, were reconstructed. The reconstruction was recognized by the relevant authorities and the ownership right was registered under V.

M., the owner of the second part of the house, decided to privatize the land plot. For this purpose, he applied to the local government. After completing the necessary procedure, the neighbor received a decision from the local council, according to which both owners of the house - V. and M. - were transferred to joint ownership of the land

plot without allocating shares. Subsequently, M. applied to the court with a claim for the allocation of a share of each of the owners. The court made a decision according to which M.'s share is $16/25$, and V.'s - $9/25$. The basis for this decision was the original plan for the distribution of the residential building (before reconstruction). According to the court decision, M. received a state act, but when the land plot was allocated to him in kind on the ground, the second owner - V. was actually deprived of the opportunity to use the land plot, since even the gate was located on the part of the land plot that belonged to M.

Believing his rights had been violated, V. went to court. During the trial, it was found that V. did not consent to the privatization of the land plot.

How to solve the case?

What are the conditions and procedure for privatization of a land plot on which a house is located, owned by several entities?

Topic 7. Legal regulation of management in the field of land use and protection

The goal is to check the level of students' mastery of theoretical provisions and legal norms, and to teach students to apply this knowledge when solving specific practical tasks.

Methodological recommendations: The student must skillfully operate with the following concepts: The concept of management and the system of management bodies in the field of land relations. Management functions in the field of land relations. The system and powers of management bodies in the field of land use and protection. Establishment and change of boundaries of administrative-territorial units. Land use planning. Land management. Control over the use and protection of land. Land monitoring. State land cadastre. State registration of land plots and rights to them.

Questions for discussion

1. The concept of management and the system of management bodies in the field of land relations.
2. Management functions in the field of land relations.
3. System and powers of management bodies in the field of land use and protection.
4. Establishment and change of boundaries of administrative-territorial units.
5. Land use planning.
6. Land management.
7. Control over land use and protection.
8. Land monitoring.

9. State Land Cadastre.

10. State registration of land plots and rights to them.

Methodological recommendations

1. The concept of management and the system of management bodies in the field of land relations

Management is the ordering of the relationships and interactions of a certain set of elements or components of a certain object.

Social management is the exercise of goal-setting, organizing, and regulating influence on people's activities in order to effectively achieve overall results in accordance with real social needs.

Types of social management:

state;

self-governing;

public;

corporate.

Public administration is the activity of executive bodies for the purpose of power-organizing influence on relevant social relations and processes, as well as the internal organizational activities of the apparatus of all state bodies to ensure the proper performance of the tasks, functions and powers assigned to them.

Features of public administration:

a) nationwide in nature;

b) focus on implementing the Constitution and laws of Ukraine (sub-legal activities);

c) legal-authoritative, administrative nature;

d) organizational content;

e) activity and determination;

e) continuous and permanent implementation;

e) the presence of three mandatory elements: decision-making, its implementation and implementation control.

State administration in the field of land relations is the activity of executive authorities using coercion, aimed at ensuring the rational use, reproduction and protection of land.

Depending on the scope of competence, public administration bodies are distinguished:

- 1) general competence,
- 2) industry competence,
- 3) special competence.

Bodies of general competence (the competence of these bodies is not limited to a specific industry or functional area):

Cabinet of Ministers of Ukraine (Law of Ukraine “On the Cabinet of Ministers of Ukraine” of February 27, 2014, Article 13 of the Civil Code of Ukraine):

implementation of state policy in the field of land use and protection;
 coordination of land reform;
 development and implementation of national land use and protection programs;
 organization of maintaining the state land cadastre, state control over the use and protection of lands and the implementation of land management;
 establishing the procedure for conducting land monitoring;
 disposal of state-owned lands within the limits determined by the Civil Code of Ukraine, etc.

Council of Ministers of the ARC (Law of Ukraine “On the Council of Ministers of the ARC” of June 16, 2011, Article 16 of the Civil Code of Ukraine):

participation in the development and implementation of national and republican programs on land use and protection;
 coordination of land management and state control over land use and protection;

disposal of state-owned lands within the limits determined by the Civil Code of Ukraine, etc.

local state administrations (Law of Ukraine "On Local State Administrations" of April 9, 1999, Article 17 of the Civil Code of Ukraine):

participation in the development and implementation of national and regional (republican) programs on land use and protection;

coordination of land management and state control over land use and protection;

preparation of conclusions on the establishment and change of boundaries of villages, settlements, districts, urban districts and cities;

coordination of activities of state land resources bodies

disposal of state-owned lands within the limits determined by the Civil Code of Ukraine, etc.

executive committees of local self-government bodies (Law of Ukraine "On Local Self-Government in Ukraine" of May 21, 1997, Articles 8–12 of the Code of Civil Procedure of Ukraine):

management of lands of territorial communities;

organization of land management;

coordination of activities of local land resources authorities;

exercising control over the use and protection of communally owned lands, compliance with land and environmental legislation;

establishment and change of district boundaries in cities with district division;

resolution of land disputes, etc.

Sectoral competence bodies (the competence of these bodies is limited to a specific sector or functional area):

Ministry of Environmental Protection and Natural Resources of Ukraine (Regulations, approved by Resolution of the Cabinet of Ministers of Ukraine dated June 25, 2020 No. 614, Articles 14, 14-1 of the Civil Code of Ukraine, Article 17 of the Law of Ukraine "On Land Protection", Article 20 of the Law of Ukraine "On

Environmental Protection”, Article 7 of the Law of Ukraine “On State Control over the Use and Protection of Lands”):

It is the main body in the system of central executive bodies in the formation and implementation of state policy in the field

1) environmental protection, ecological safety, use, reproduction and protection of lands,

2) land reclamation,

3) land monitoring,

as well as in the field of state supervision (control) over compliance with the requirements of legislation on environmental protection, rational use, reproduction and protection of natural resources, etc.

Ministry of Agrarian Policy and Food of Ukraine (Regulations, approved by Resolution of the Cabinet of Ministers of Ukraine dated February 17, 2021 No. 124, Article 18 of the Law of Ukraine “On Land Protection”, Article 8 of the Law of Ukraine “On State Control over the Use and Protection of Lands”, Article 15 of the Land Code of Ukraine):

It is the main body in the system of central executive bodies for the formation and implementation of state policy in the following areas:

land relations and topographic, geodetic and cartographic activities,

forestry and hunting,

supervision (control) in the agro-industrial complex,

participates in monitoring and protection of agricultural lands, etc.

The State Agency of Water Resources of Ukraine (Article 16 of the Law of Ukraine “On Land Reclamation”, Regulations, approved by Resolution of the Cabinet of Ministers of Ukraine dated August 20, 2014 No. 393) exercises a number of powers in the field of land reclamation and use of water bodies;

The State Agency of Forest Resources of Ukraine (Article 28 of the Forestry Code of Ukraine, Regulations, approved by Resolution of the Cabinet of Ministers of

Ukraine No. 521 of October 17, 2014) exercises state supervision and control over the use of forestry lands;

Ministry of Community, Territorial and Infrastructure Development of Ukraine;

Ministry of Defense of Ukraine;

Ministry of Culture and Information Policy of Ukraine and others.

The specially authorized body in the field of land relations is the State Service of Ukraine for Geodesy, Cartography and Cadastre (Regulations, approved by Resolution of the Cabinet of Ministers of Ukraine dated January 14, 2015 No. 15, Article 15-1 of the Land Code of Ukraine).

It is a central executive body, the activities of which are directed and coordinated by the Cabinet of Ministers of Ukraine through the Minister of Agrarian Policy and Food and

which implements state policy in the field of topographic, geodetic and cartographic activities, land relations, land management, in the field of the State Land Cadastre, state supervision (control) in the agro-industrial complex in terms of compliance with land legislation, use and protection of lands of all categories and forms of ownership, and soil fertility.

Structure of the Central Office of the State Service of Ukraine for Geodesy, Cartography and Cadastre:

Department of State Land Cadastre;

Department of Land Management, Land Use and Protection;

Department of Land Use and Protection Control;

Department of Topographical, Geodetic and Cartographic Activities;

Department of International Cooperation and Land Market;

State Expertise Office;

Legal Department;

Department of Financial Security and others.

Territorial bodies of the State Geocadastre (Regulations, approved by Order of

the Ministry of Agrarian Policy and Food of Ukraine dated September 29, 2016 No. 333);

State land management institutes (SE "Main Research and Design Institute of Land Management", SE "Research and Design Institute of Land Management");

State topographic and geodetic enterprises (SE "Research Institute of Geodesy and Cartography", SE "State Cartographic and Geodetic Fund of Ukraine");

State Enterprise "Center of State Land Cadastre" (Order of the Ministry of Agrarian Policy and Food of Ukraine dated December 27, 2012 No. 836 and Order of the State Geocadastre dated January 28, 2016 No. 36 "On the Determination of the Administrator of the State Land Cadastre").

2. Management functions in the field of land relations

Management functions in the field of land relations are types (directions) of activity of authorized bodies to ensure rational and effective use, protection and reproduction of land.

Land use planning (Chapter 30 (Articles 177–180) of the Civil Code of Ukraine).

Forms of land use planning are:

- 1) development and approval of land use programs (state, regional),
- 2) territorial planning,
- 3) natural and agricultural zoning of lands.

The legal basis for the development and approval of state and regional land use programs is the norms of Articles 85, 116 of the Law of Ukraine, Article 6 of the Law of Ukraine “On Environmental Protection”, the Law of Ukraine “On State Target Programs”, Articles 177–180 of the Civil Code of Ukraine.

The legal basis for territorial planning is the Law of Ukraine “On the Fundamentals of Urban Planning”, “On the Regulation of Urban Planning Activities”, “On the General Scheme of Territorial Planning of Ukraine”, Article 180 of the Civil Code of Ukraine. A variety is territorial zoning.

Natural-agricultural zoning of lands – division of territory taking into account natural conditions and agrobiological requirements of agricultural crops (part 1 of article 179 of the Land Code of Ukraine). Implementation is regulated by article 26 of the Law of Ukraine “On Land Protection”, article 39 of the Law of Ukraine “On Land Management”, PKM dated May 26, 2004 No. 681 “On Approval of the Procedure for Implementation of Natural-Agricultural, Ecological-Economic, Anti-Erosion and Other Types of Land Zoning”.

Establishment of the boundaries of administrative-territorial units (Articles 173–176 of the Civil Code of Ukraine).

Land monitoring is a system of observing the condition of lands with the aim of timely detection of changes, their assessment, prevention and elimination of the consequences of negative processes (Part 1, Article 191 of the Civil Code of Ukraine).

Implementation is regulated by Art. 22 of the Law of Ukraine “On Environmental Protection”, Art. 191–192 of the Civil Code of Ukraine, Art. 5, 8, 9 of the Law of Ukraine “On State Control over the Use and Protection of Lands”, PCMU “On Approval of the Regulation on Land Monitoring” dated August 20, 1993 No. 661, PCMU “On the Regulation on the State Environmental Monitoring System” dated March 30, 1998 No. 391.

Control over the use and protection of lands consists in ensuring compliance by state authorities, local governments, enterprises, institutions, organizations and citizens with the land legislation of Ukraine (Article 187 of the Land Code of Ukraine).

General provisions on the exercise of state control in this area are defined in Articles 187–190 of the Civil Code of Ukraine, the Law of Ukraine “On State Control over the Use and Protection of Lands”.

Land management is a set of socio-economic and environmental measures aimed at regulating land relations and rational organization of the territory of administrative-territorial units, business entities, carried out under the influence of social and production relations and the development of productive forces (Article 1 of

the Law of Ukraine "On Land Management", Article 181 of the Land Code of Ukraine).

The content of land management (Article 184 of the Civil Code of Ukraine):

- ü establishment (restoration) of boundaries of administrative-territorial units, land ownership and land use on the ground;

- ü drawing up land management schemes, developing feasibility studies for the use and protection of lands of the relevant administrative and territorial units;

- ü preparation of land allocation projects;

- ü establishing in-kind (on the ground) boundaries of land plots;

- ü preparation of documents certifying ownership or right to use land, in cases provided for by law;

- ü development of other land management documentation related to land use and protection;

- ü conducting topographic and geodetic, cartographic, soil, geobotanical and other surveys and land explorations, etc.

Maintaining the State Land Cadastre (Law of Ukraine “On the State Land Cadastre”, Articles 197–203 of the Civil Code of Ukraine).

Components of the state land cadastre:

- a) cadastral zoning (establishing the boundaries of cadastral zones and quarters);

- b) cadastral surveys (a set of works performed to determine and restore the boundaries of land plots);

- c) soil assessment;

- d) economic valuation of land;

- e) monetary valuation of land plots (normative, expert);

- e) state registration of land plots;

- e) accounting for the quantity (reflection in information and documents of data that characterize each land plot, as well as land by area and composition of land,

distribution of land by owners, land users) and quality (reflection in information and documents of data that characterize land by natural and acquired properties that affect their productivity and economic value, as well as by the degree of technogenic soil pollution) of land.

Resolution of land disputes (Article 158 of the Civil Code of Ukraine).

Land disputes are resolved by courts, local governments, and the central executive body that implements state policy in the field of land relations.

Land disputes regarding the ownership, use and disposal of land plots owned by citizens and legal entities, as well as disputes regarding the delimitation of territories of villages, settlements, cities, districts and regions, are resolved exclusively by the court.

Local governments resolve land disputes within settlements regarding the boundaries of land plots owned and used by citizens, and citizens' compliance with the rules of good neighborliness, as well as disputes regarding the demarcation of district boundaries in cities.

The central executive body that implements state policy in the field of land relations resolves land disputes regarding the boundaries of land plots outside settlements, the location of land use restrictions, and land easements.

Test questions

1. Define management in the field of land use, protection and restoration.
2. Name the management bodies with special competence in the field of land use, protection and restoration.
3. Define the functions of management in the field of land use, protection and restoration.
4. Which bodies make decisions on establishing and changing the boundaries of administrative-territorial units?
5. What is the content of the function of planning land use, protection and restoration?

6. What is the function of controlling the rational use, protection and restoration of lands?
7. What is the essence of land zoning?
8. Formulate the concept of land management, what is its purpose and goal?
9. What is the content of land management?
10. Name the main tasks of land monitoring.
11. Procedure for monitoring soils on agricultural lands.
12. Define the State Land Cadastre.
13. Name the system of bodies that maintain the State Land Cadastre.
14. In what order is state registration of land plots carried out?
15. What is the function of land monitoring? How does land monitoring differ from soil monitoring?
16. Name the system of bodies that carry out state registration of land rights.
17. In what order is state registration of land rights carried out?

Task

I. Describe the main functions of management in the field of land relations.

II. Solve the problem:

Task 1

K. acquired a plot of land for his personal farming, which he eventually decided to lease to an industrial workshop, concluding a corresponding agreement with it. In addition, K. stopped paying land tax, arguing that the land, in his opinion, was not fertile enough. The state inspector, recognizing these circumstances as an offense, drew up a report and sent an appeal to the tax inspectorate. K., in turn, went to court with a claim for violation of his rights as the owner of the land plot.

How to solve this case?

Define the scope of responsibilities of land owners.

Task 2

A. applied to the village council with a request to transfer to her ownership of a plot of land that she has been using continuously for 15 years. She does not have documents that would indicate the existence of rights to this plot of land. The village council refused her request, citing the fact that the plot of land that A. uses belongs to municipal lands and cannot be transferred to private ownership.

How to solve this case?

What is the procedure for acquiring the right to a land plot by prescription of use?

Task 3

A group of deputies of the local council during a sessional meeting made a statement about the illegality of previously adopted decisions on the approval of the transfer of land plots of communal property for sublease. Despite the fact that, in accordance with the law, the land plots were transferred for lease on a competitive basis, the deputies demanded their transfer for sublease (also with a competition). The council did not satisfy this statement, considering the procedure for granting land plots for sublease to be violated.

How should this matter be resolved?

Has the procedure for subleasing land plots been violated if the City Council did not hold a competition among subleasers?

Task 4

The district state administration made a decision to transfer the land plot under the building of the production enterprise into the ownership of the territorial community of the village. However, the state registration of the territorial community's ownership rights was refused. As it turned out, the specified land plot was assigned a previously canceled cadastral number assigned to another land plot due to an error by the state cadastral registrar.

Give a legal opinion on the case.

What are the grounds established by law for canceling state registration of land plots?

What liability is provided by law for state cadastral registrars for violating the provisions of the legislation in the field of state registration of land plots?

Task 5

G. filed a lawsuit with the District Administrative Court, requesting that the refusal of the State Administration of the State Geocadaastre to approve the land management project regarding the allocation of a land plot for gardening with a total area of 0.10 hectares from the reserve lands located outside the settlement on the territory of the village council be recognized as unlawful, and that the plaintiff be granted ownership of the said land plot. In support of his claims, the plaintiff noted that the grounds for the refusal of the State Administration of the State Geocadaastre to approve the land management project do not meet the requirements of current legislation. In particular, the State Administration of the State Geocadaastre notified the plaintiff in a letter of the establishment of inconsistencies in the land management project. Thus, the geodetic survey materials do not meet the requirements of the Instructions for Topographical Surveying, therefore, the explication of land plots was drawn up incorrectly. G. asked the court to protect his interest in obtaining the land plot.

What decision should the court make?

Solve the case.

Task 6

In 2020, at the request of the tenant, a private notary certified a lease agreement for a land plot for personal farming. The agreement specified the date of its conclusion and its term, as well as the form of rent. Having applied to the state registrar with an application for state registration of the lease right, the tenant was refused due to the fact that the specified agreement was registered in 2012 for a period of 20 years, and another person is a party to it. The tenant filed a lawsuit with the administrative court.

Solve the case.

What liability is provided by law for state registrars for violating the provisions of the legislation in the field of state registration of rights to land plots?

Task 7

While monitoring soils on agricultural lands, the State Geocadaastre established the fact of changes in soil fertility, deterioration of their structure, salinization and waterlogging. A corresponding act was drawn up and a petition was sent to the district state administration to terminate the right to use the specified land plot. Representatives of the district state administration filed a lawsuit for the forced alienation of the land plot to the court.

What in the above situation is an error in actions or facts, taking into account the provisions of land legislation?

Task 8

K. acquired a plot of land for his personal farming, which he eventually decided to lease to an industrial workshop, concluding a corresponding agreement with it. In addition, K. stopped paying land tax, arguing that the land, in his opinion, was not fertile enough. The state inspector, recognizing these circumstances as an offense, drew up a report and sent an appeal to the tax inspectorate. K., in turn, went to court with a claim for violation of his rights as the owner of the land plot.

How to solve this case?

Define the scope of responsibilities of land owners.

Task 9

A. applied to the village council with a request to transfer to her ownership of a plot of land that she has been using continuously for 15 years. She does not have documents that would indicate the existence of rights to this plot of land. The village council refused her request, citing the fact that the plot of land that A. uses belongs to municipal lands and cannot be transferred to private ownership.

How to solve this case?

What is the procedure for acquiring the right to a land plot by prescription of use?

Topic 8. Legal regime of different categories of land in Ukraine

The goal is to check the level of students' mastery of theoretical provisions and legal norms, and to teach students to apply this knowledge when solving specific practical tasks.

Methodological recommendations: *The student must be able to operate with the following concepts:* the concept of the legal regime of lands; the content of the legal regime of lands; the division of lands into categories; the concept of the intended purpose of lands; the concept of the functional use of lands; the procedure for changing the intended purpose of land plots.

Questions for discussion

1. The concept and content of the legal regime of lands. Division of lands into categories.
2. The concept of the purpose and functional purpose of land.
3. Procedure for changing the purpose of land plots.
4. The concept and composition of agricultural lands.
5. Features of the legal regime of agricultural lands.

Methodological guidelines

- 1. The concept and content of the legal regime of lands. Division of lands into categories.**

The legal regime of land is the procedure and conditions established by legal norms for the use of land of all categories for their intended purpose, ensuring and protecting the rights of land owners and land users, implementing state management of the land fund and control over land use, complying with the requirements of land legislation, maintaining a land cadastre, conducting land management and land monitoring, paying land fees and applying incentive measures for the use of land resources and measures of legal liability for violations of land legislation.

Elements of the legal regime of lands:

- ownership of land, other rights to it
- land use and protection management
- legal protection of lands
- liability measures for violations of land legislation

The concept of "legal regime" in land law is used to characterize:

- 1) all lands (general legal regime);
- 2) certain categories of land (special legal regime);
- 3) types of land within a particular category (special legal regime);
- 4) land plot or part of a land plot (specific legal regime).

The lands of Ukraine include all lands within its territory, including islands and lands occupied by water bodies, which are divided into categories according to their main purpose.

Land categories in Ukraine have a special legal regime.

Article 19 of the Civil Code of Ukraine. Land categories

1. The lands of Ukraine are divided into the following categories according to their main purpose:

- a) agricultural land ;
- b) residential and public development land ;
- c) lands of nature reserves and other nature conservation purposes;
- d) lands for recreational purposes ;
- e) recreational lands ;
- e) lands of historical and cultural significance ;
- f) forestry lands ;
- g) water fund lands ;
- g) land for industry, transport, electronic communications, energy, defense and

other purposes.

2. The concept of purpose and functional purpose of land

A land plot, which by its main purpose belongs to the corresponding category of land, is referred, in accordance with the procedure established by this Code, to a certain type of purpose, which characterizes the specific direction of its use and its legal regime (Part 3, Article 19 of the Land Code)

The intended purpose of a land plot should be understood as the permissible limits of use of a land plot by citizens and legal entities established by legislation and specified by the relevant authorities.

The intended purpose of a land plot determines the method of its use that is established for this plot.

The intended purpose of a land plot is its use for the purpose determined on the basis of the relevant technical documentation on land management and current legislation.

The assignment of land plots to a certain category and type of intended purpose of land plots is carried out in relation to:

- land plots managed by the Supreme Council of the Autonomous Republic of Crimea, the Council of Ministers of the Autonomous Republic of Crimea, executive authorities and local self-government bodies - by decision of the relevant body;
- privately owned land plots - by their owners.

Information about the intended purpose of the land plot is entered into *the State Land Cadastre*.

By Resolution of the Cabinet of Ministers of Ukraine dated July 28, 2021 No. 821 "On Amendments to Certain Acts of the Cabinet of Ministers of Ukraine", the Classifier of Types of Land Use was put into effect.

The category of land and the type of purpose of the land plot are determined within the corresponding type of functional purpose of the territory, provided for by the approved comprehensive plan for the spatial development of the territory of the territorial community or the general plan of the settlement.

A comprehensive spatial development plan for the territory of a territorial community is simultaneously urban planning documentation at the local level and land management documentation that determines the planning organization, functional purpose of the territory, the main principles and directions for the formation of a unified system of public services for the population, road network, engineering and transport infrastructure, engineering preparation and improvement, civil protection, protection of lands and other components of the natural environment, formation of an ecological network, protection and preservation of cultural heritage and the traditional character of the environment of settlements, as well as the sequence of implementation of decisions, including the phasing of territory development;

The comprehensive plan provides for coordinated decision-making regarding the systematic (comprehensive) spatial development of settlements as a single settlement system and the territory beyond their borders (hereinafter referred to as the comprehensive plan).

On Amendments to Certain Legislative Acts of Ukraine on Land Use Planning No. 711-IX of June 17, 2020 was introduced (entered into force on July 24, 2021)

Regulated by Article 16-1 of the Law of Ukraine "On Regulation of Urban Planning Activities"

Article 16-1. Comprehensive spatial development plan for the territory

The comprehensive plan includes planning decisions regarding the prospective use of the entire territory of the territorial community, as well as:

- master plan of the settlement - the administrative center of the territorial community;
- master plans of settlements and detailed plans of the territory within the territory of the territorial community, approved prior to the adoption of the comprehensive plan, which, in accordance with this article, are recognized as meeting the requirements of the legislation, are consistent with the

planning decisions of the comprehensive plan and are subject to inclusion in it;

- master plans of settlements within the territory of the territorial community, the need for their development is established by the decision on approval of the comprehensive plan (included in the comprehensive plan simultaneously with their approval);
- planning decisions of general plans of other settlements and detailed plans of territories within the territory of the territorial community in the scope determined by the Cabinet of Ministers of Ukraine;
- detailed plans of the territory within the territory of the territorial community (included in the comprehensive plan simultaneously with their approval);
- boundaries of functional zones of the entire territory of the territorial community with requirements for development and landscape organization of such zones (zoning plans for the territories of settlements within the territory of the territorial community are developed as part of general plans and are included in the comprehensive plan simultaneously with the approval of the relevant general plans);
- historical and architectural reference plans of historical areas of settlements included in the List of Historical Settlements of Ukraine (included in the comprehensive plan as integral components of the general plans of the relevant settlements).

The developer of a comprehensive plan may be a business entity that has the right to develop urban planning documentation in accordance with the Law of Ukraine "On Architectural Activities" and land management documentation in accordance with the Law of Ukraine "On Land Management".

The composition and content of the comprehensive plan are determined by the Cabinet of Ministers of Ukraine in the Procedure for the development, updating,

amendment and approval of urban planning documentation, approved by Resolution of the Cabinet of Ministers of Ukraine dated September 1, 2021 No. 926

A comprehensive plan is developed by decision of the relevant village, settlement, or city council.

The general plan of a settlement is both a type of urban planning documentation at the local level and land management documentation and is intended to substantiate a long-term strategy for planning and development of the territory of a settlement.

A mandatory component of the general plan of a settlement is the zoning plan for the territory of this settlement.

The decision to develop a master plan is made by the relevant village, settlement, or city council.

The purpose of a land plot may be established without taking into account the type of functional purpose of the territory, provided for by the approved comprehensive spatial development plan of the territorial community or the general plan of the settlement, in cases:

- transfer of a land plot of state or municipal property in accordance with part three of Article 24 of the Law of Ukraine "On Regulation of Urban Planning Activities";
 - conservation of degraded and unproductive, technogenically polluted lands;
 - assignment of the land plot to the lands of the nature reserve fund and other nature conservation purposes;
 - assignment of the land plot to forestry lands;
 - changes in the type of purpose of a land plot within the category of agricultural land (except for their classification as land plots for gardening, changes in the purpose of land plots under forest shelterbelts);
- assignment of land plots within the seaport to maritime transport lands.

3. Procedure for changing the purpose of land plots

According to Article 20 of the Civil Code

When changing the intended purpose of land plots, the category of land and/or type of intended purpose is changed.

The land user may change the purpose of land plots of state and municipal ownership classified as residential and public development lands, industrial lands, transport, electronic communications, energy, defense and other purposes, as well as land plots (except for land plots located on the territory of nature reserves, objects of the natural reserve fund, and land plots of forestry purposes) on which buildings and structures are located, which are privately owned by a land user who uses land plots on the rights of permanent use, lease, emphyteusis, or superficies.

In this case, changing the purpose of the land plot does not require the adoption of decisions by the Supreme Council of the Autonomous Republic of Crimea, the Council of Ministers of the Autonomous Republic of Crimea, the executive body and the local government body that manages the relevant land plot.

Procedure for changing the purpose of land plots

Stage 1

Filing an application from the owner to change the intended purpose

Stage 2

Development and approval of a land management project

A change in the intended purpose of land plots is approved in the following cases:

- if the land plot is used under the rights of permanent use, lease, emphyteusis, superficies, or mortgage - with the land user, mortgagee (whose signature on the agreement is notarized);
- if the land plot belongs to defense lands - with the Ministry of Defense of Ukraine or a state authority that manages a military formation, the scope of whose management includes a military unit, institution, military training institution, enterprise and organization that uses defense lands on the right of permanent use;

- changes in the intended purpose of land plots of state and municipal property of the nature reserve fund and other nature conservation purposes, historical and cultural, forestry purposes, as a result of which land plots are removed from such categories, as well as changes in the intended purpose of lands defined by paragraph "b" of part one of Article 150 of the Land Code of Ukraine , - with the Cabinet of Ministers of Ukraine.

Please note! Part four of Article 24 of the Law of Ukraine "On Regulation of Urban Planning Activities" stipulates that a change in the intended purpose of a land plot is permitted only if the rules of the ratio between the new type of intended purpose of the land plot and the type of functional purpose of the territory determined by the relevant urban planning documentation at the local level are observed, except for cases specified in Part three of Article 20 of the Land Code of Ukraine .

Stage 3

Decision-making by the authorized body provides for:

submission of a land management project regarding the allocation of a land plot to the relevant local government or executive authority;

consideration and approval of the land management project for the allocation of a land plot;

adoption by the authorized body, based on the land allocation project, of a decision to change the purpose of the land plot, or refusal to make such a change.

Stage 4 of entering information into the State Geocadaastre regarding the change of purpose

To register changes to information about a land plot, it is necessary to contact the state cadastral registrar at the territorial (district, city) body of the State Geocadaastre of Ukraine with an application for changes to information about a land plot. Unless otherwise provided for in the project development agreement, the land management organization must contact this body.

The application is accompanied by a land management project for the allocation of a land plot, developed and approved by the authorized bodies, in paper form and in the form of an electronic document, and if a state examination was conducted on the project, also the original of the positive conclusion of this examination.

This service is provided free of charge.

Change of purpose of agricultural and forestry lands

The change in the intended purpose of forestry lands is carried out on condition that the owner of the land plot (and for state and municipally owned lands - the user) compensates for losses in forestry production, except in cases specified by law.

In such cases, the entry in the State Land Cadastre of information about the change in the purpose of a land plot is carried out on the condition that its owner (and for state and municipally owned lands - the user) provides security for the fulfillment of the obligation to compensate for losses in forestry production, except in cases specified by law, in the form of a guarantee.

The State Cadastral Registrar, who enters information about a change in the purpose of such a land plot into the State Land Cadastre, shall, using the State Land Cadastre software, immediately notify the institution that issued the guarantee of the occurrence of grounds for compensation for losses in forestry production.

Change of purpose of "especially valuable lands"

Changing the intended purpose of especially valuable lands is permitted only in the following cases:

- placement on them of objects of national importance, roads, power lines and electronic communication networks, pipelines, drainage and irrigation canals, geodetic points, housing, objects of socio-cultural purpose, objects related to the extraction of minerals, oil and gas wells and production facilities related to their operation;
- placement of industrial facilities on lands specified in paragraph "a" of part one of Article 150 of the Land Code of Ukraine ;

- alienation of land plots for public needs or for reasons of public necessity, assignment of lands defined by points "a" and "b" of part one of Article 150 of the Land Code of Ukraine to lands of the nature reserve fund and other nature conservation purposes, historical and cultural purposes, forestry purposes.

Consequences of violating the procedure for establishing and changing the purpose of land (Article 21 of the Land Code)

Violation of the procedure for establishing and changing the purpose of land is grounds for:

a) invalidation of decisions of state authorities, the Supreme Council of the Autonomous Republic of Crimea, the Council of Ministers of the Autonomous Republic of Crimea and local self-government bodies on the provision (transfer) of land plots to citizens and legal entities;

b) invalidation of land agreements;

c) refusal of state registration of land plots or recognition of registration as invalid;

d) bringing to justice, in accordance with the law, citizens and legal entities guilty of violating the procedure for establishing and changing the purpose of land.

4. The concept and composition of agricultural lands.

The composition of agricultural lands is determined by their intended purpose. According to Article 22 of the Land Code of Ukraine, these lands include: agricultural lands and non-agricultural lands. The most characteristic and important is the first group - agricultural lands, which should be understood, first of all, as arable land (arable land), as well as land under perennial plantings (orchards, vineyards, hop plantations, etc.), hayfields, pastures, fallow lands. Arable land, or arable land, is the most valuable component of agricultural lands. It is they who are characterized by the presence of soil cover, which provides their unique natural property of fertility, their

importance as the main means of producing grain products, growing industrial and other agricultural crops.

Non-agricultural lands include lands under farm roads and tracks, field shelterbelts and other protective plantings, except for those classified as lands of other categories, lands under farm buildings and yards, lands under the infrastructure of wholesale markets for agricultural products, lands of temporary conservation, etc. These agricultural lands serve as a spatial base, territory, and land area used for additional (beyond crop and livestock) agricultural and other needs.

In order to improve land use rules, the land legislation defines as a separate object of land legal relations an "agricultural land mass", which is a set of agricultural land plots consisting of agricultural and non-agricultural lands necessary for their maintenance (land under field roads, land reclamation systems, farm roads, runs, linear objects, engineering infrastructure objects, as well as ravines, wetlands, other lands located within the land mass), having common boundaries and limited by natural and/or artificial relief elements (public highways, field protection forest belts and other protective plantings, water bodies, etc.) (Article 1 of the Law of Ukraine "On Land Management").

In addition to dividing agricultural lands into two groups, the Agricultural Code of Ukraine also distinguishes other structural characteristics of these lands. In particular, "soils of land plots" are allocated as a separate and special object of protection (Article 168). A separate group within agricultural lands is "especially valuable lands", among which Article 150 of the Agricultural Code of Ukraine distinguishes: non-eroded non-salonized chernozems on forest rocks; meadow-chernozem non-salonized non-salonized loamy soils; dark-gray podzolized soils and podzolized chernozems on loess and gleyed; brown mountain-forest and sod-brown soil deep and medium-deep soils; sod-podzol loamy soils; brown soils of the Southern Coast of Crimea, sod-deep soils of Transcarpathia (item "a"). A special procedure has been established for changing their intended purpose and terminating rights to them.

5. Features of the legal regime of agricultural lands

Land legal regime is a consequence of legal regulation of public land relations based on taking into account the natural and social characteristics of land (as its object), which ensures the interests of the subjects of these relations and a special procedure for the use of such lands. That is, it is a set of legal norms that establish a certain procedure for land use of various types.

Agricultural land use is a particularly specific type of land use, which is determined by two main factors: the natural features of agricultural lands and their important social purpose. In this regard, the legal regulatory impact on agricultural lands is implemented in certain provisions that characterize the features of their legal regime.

1. The central place of agricultural lands in the composition of the lands of Ukraine. This follows from the constitutional enshrinement of these lands as “the main national wealth, which is under special protection of the state”. The specified provision is also conditioned by such a principle of land legislation as the combination of the features of land use as a natural resource and the main means of production.

Agricultural lands occupy the first place in the classification of lands, dividing them into categories (Article 19 of the Land Code of Ukraine).

2. Priority of agricultural lands. This principle has found its special consolidation in Art. 23 of the Civil Code of Ukraine. Its main content is the norm that "lands suitable for agricultural needs (except for self-forested lands) should be provided primarily for the following purposes: 1) conducting agriculture; 2) conducting forestry; 3) creating territories and objects of the nature reserve fund." (Part 1 of Art. 23). This refers to the natural property of these lands to perform the function of the main means of production.

For the construction of industrial enterprises, railways and highways, power transmission and communication lines, main pipelines, as well as for other needs not

related to agricultural production, mainly non-agricultural lands or agricultural lands of poorer quality are provided (Part 3 of Article 23 of the Agricultural Code of Ukraine).

3. Definition of the circle of subjects of agricultural land use. Subjects of land use of this type of land can be both individuals and certain legal entities, in particular, farms, agricultural cooperatives, and private agricultural enterprises.

The current land legislation of Ukraine contains restrictions on the entities to which agricultural lands may be transferred into ownership and provided for use by clearly defining the purposes of further use. Thus, the legislation provides for the possibility of acquisition of rights by citizens of Ukraine (in ownership or lease), foreigners and stateless persons (only on lease terms) to land plots intended for gardening. In the future, they can be used for planting perennial fruit plantations, growing agricultural crops, as well as for the construction of necessary houses, outbuildings, etc. (Part 3 of Article 35 of the Land Code of Ukraine).

State and municipal agricultural enterprises, institutions and organizations are provided with land plots from state and municipal property for permanent use for scientific research, educational purposes and conducting commercial agricultural production (Article 24 of the Agricultural Code of Ukraine).

Non-agricultural enterprises, institutions and organizations may acquire rights to agricultural land for subsidiary farming (private - as ownership or lease, state and municipal - as lease) (Article 37 of the Civil Code of Ukraine).

Common to all these entities is their implementation of agricultural land use, their direct connection with agricultural production.

Both citizens of Ukraine and legal entities of Ukraine, being special subjects of land relations, also have special — land legal capacity. Subjects of ownership of agricultural land may be citizens of Ukraine, legal entities of Ukraine, created and registered under the legislation of Ukraine, participants (shareholders, members) of which are only citizens of Ukraine and/or the state, and/or territorial communities;

territorial communities; the state and, under certain conditions, banks (Part 1, Article 130 of the Civil Code of Ukraine).

4. Rationality is an important principle of agricultural land use. The public-legal significance of agricultural lands and their indispensable role in ensuring food security for the entire country make the principle of rational use of these lands a comprehensive requirement for all subjects of land relations.

The rationality of land use should be understood not so much as maximum economic efficiency, but rather scientific validity and the greatest expediency of using the most valuable category of land while simultaneously complying with the environmental rules for their protection. Therefore, it is no coincidence that Article 5 of the Land Code of Ukraine enshrined the provision of rational use and protection of land as a principle of land legislation. Due to the special value and at the same time the increased possibility of deterioration of agricultural lands for them, this principle is of paramount importance. This is also connected with the need for enhanced legal protection of these lands, in particular soils as an "object of special protection" (Article 168 of the Land Code of Ukraine).

The principle of rational land use is of greatest importance for agricultural lands, since for other categories of lands only the fact of land allocation is important, and not their economic use. For agricultural lands, the procedure and conditions of their intended production (and other) use form the basis of the content of land legal personality.

Test questions

1. The concept and content of the legal regime of lands.
2. Division of land into categories.
3. The concept of purpose and functional purpose of land.
4. Procedure for changing the purpose of land plots.
5. Name the features of the legal regime of agricultural lands.

6. What is the priority of agricultural lands? 3. Identify the components of soil protection.
7. Describe the features of the subject composition of the right to use agricultural land.
8. Specifics of legal protection of agricultural lands.
9. What are the features of the system of management bodies in the field of use and protection of agricultural lands?
10. What powers do management bodies have in the field of use and protection of agricultural lands?
11. Name the features of the legal protection of agricultural lands.

Task

Solve the problems:

Task 1

Citizen I.I. Ivanov applied to the village council with a request to provide him with a land plot for personal farming in the amount of 0.6 hectares by way of free privatization. The village council refused, citing the fact that citizen I.I. Ivanov owns a land plot for personal farming with an area of 1.8 hectares, that he has already exercised his right to receive a land plot within the limits of the norms of free privatization, since, in accordance with Part 4 of Article 116 of the Land Code of Ukraine, the transfer of land plots free of charge into the ownership of citizens within the limits of the norms specified in Article 121 of the Land Code of Ukraine is carried out once for each type of use.

1. Provide a legal assessment of the claims of citizen I.I. Ivanov.
2. Provide a legal assessment of the village council's position.

What is the procedure for providing land for personal farming?

Task 2

The Ivanovo Village Council was contacted by a resident of the village, a pensioner D., who is the owner of a land plot with an area of 5 hectares, obtained as a result of the allocation of a land share in kind. She asked the village council to accept her voluntary renunciation of ownership of this land plot, since she cannot cultivate it herself, and the quality of the soil is so low that no entrepreneur wants to rent the land. The district subsidy department, in turn, believed that D. had a profit from the plot, and therefore refused to provide assistance. The council executive committee granted D.'s request and made a decision to accept her voluntary renunciation of ownership and to include the specified land plot in the agricultural reserve of communal property of the territorial community of the village.

Give a legal assessment of the actions of the parties.

Task 3

Citizen Starodub contacted legal advice with a question about what purpose of the land plot (commercial production or running a personal farm) he needs to indicate in the application for the transfer of the land plot into ownership? Starodub explained that he wants to receive the land plot into private ownership, and then transfer this plot to a farm for rent.

- 1. How does the legal regime of lands for commercial agricultural production differ from the legal regime of lands for personal peasant farms?*
- 2. What answer should be given to Starodub?*
- 3. Justify your answer with a reference to a regulatory act.*

Task 4

Citizen Chemerys owns a land plot for personal farming, located next to her personal plot of land.

- 1. Does Chemerys have the right to privatize free of charge the land plot provided for personal farming, if she has already exercised the right to free of charge privatization of her personal land plot?*

2. *Should Chemeris pay land tax if she has reached retirement age but continues to work at the school?*
3. *Justify your answer with reference to a regulatory act.*

Task 5

A resident of an apartment building S. filed a lawsuit with the court for compensation for damages caused to him by a resident of the same building P. At the court hearing, he explained that for eight years since moving into this building, he has been using a part of the adjacent land plot of 0.02 hectares, adjacent to his apartment, located on the first floor.

During this time, he planted several fruit trees, raspberries, currants. He created a hedge of decorative acacia around the land plot. At one time, he purchased peat and humus with his own money, which significantly improved the fertility of the land plot.

In the fall, he applied biological additives and dug up the plot. However, recently, P.'s neighbor, who had not previously used the land plot in the adjacent territory, brought the head of the housing and communal services, who said that he had made a decision to assign the specified plot to Mr. P. in connection with his privatization of his apartment, and later he destroyed all the plantings and placed a small greenhouse. Citizen P. did not recognize the claims, justifying this by the fact that, under current legislation, in the event of privatization of an apartment in an apartment building, he has the right to privatize a share of the land in the adjacent territory.

Is the claim upheld?

Solve the case.

Task 6

Mr. Koroviev, the owner of a land plot for the construction of a residential building in the city of Polisske, decided to build a house on it. He appealed to the local

council with a request to provide advice on the procedure for obtaining the necessary building permits. The response to the appeal stated that there are no local building regulations that should determine the procedure for obtaining a building permit. Therefore, Mr. Koroviev does not have the right to erect new buildings until their approval (which should take place this year).

Not satisfied with this explanation, Koroviev began construction at his own risk. At the stage of erecting the walls of the new house, he was first verbally warned and then fined by the head of the State Architectural and Construction Control Inspectorate. Not agreeing with this development of events, Mr. Koroviev appealed the actions of the head of the inspectorate to court and asked you to provide advice on the following issues: what is the procedure for constructing manor-type residential buildings established by law? Did Mr. Koroviev have the opportunity to carry out construction in the absence of approved local building regulations? What is the procedure for commissioning the house and is it necessary to involve, in addition to him, a professional builder, other persons/bodies, etc.?

1. *Define the scope of public legal relations.*
2. *Answer the questions of Count Koroviev.*
3. *What decision should the court make on the complaint?*

Task 7

The private enterprise "Klen" received, by decision of the village council, a forestry land plot for temporary use for the purpose of harvesting secondary forest materials. The director of the forestry enterprise, within whose boundaries the land plot is located, sent a letter to the district prosecutor, in which he asked to cancel the decision of the village council on the provision of the land plot. According to the director, issues related to forestry lands should be resolved by forestry bodies.

1. *How to solve this case?*

Task 8

A lease agreement was concluded between the district state administration and Sokolov T. for a land plot of the water fund with an area of 15.57 hectares (including 9.17 hectares under the lake, 6.40 hectares of coastal protection strip, of which 0.50 hectares are pastures, 5 hectares are lands covered with forest vegetation, and 0.90 hectares are shrubs), which is in reserve and is located outside the settlements of the village council, for a period of 5 years. During the inspection, the prosecutor's office revealed violations of the requirements of land legislation regarding the allocation of forestry lands by the district state administration for use under the terms of a lease.

1. How to solve this case?

Task 9

The regional state department for environmental protection received a project for allocating a land plot for the construction of an agricultural warehouse for approval. The department refused to approve the project, citing the fact that the planned construction is located within the coastal protection zone, which is contrary to the legislation.

The customer of the diversion project filed a lawsuit with the administrative court, requesting that the administration be ordered to approve the diversion project. In support of his claims, the plaintiff referred to the fact that the land plot is located within the boundaries of a settlement, and coastal protection strips are not established in settlements.

1. What is the regime and procedure for establishing coastal protection strips?

2. Solve the case.

Task 10

LLC "Karasi" decided to engage in fish farming. To do this, it applied to the regional council for the lease of a land plot with a pond with an area of 0.2 hectares. The council refused to provide the land plot, noting that the lease of a water body for fish farming involves the lease of water, not the land plot of the bottom. In addition, this would violate the rights of tenants of the coastal protection strip, who have already built summer houses within the coastal strip of land. In view of this, LLC "Karasi" filed a lawsuit in court to terminate the lease agreements for land plots around the reservoir, since these plots, as it turned out, are components of the ecological network and therefore cannot be used for needs other than environmental protection.

- 1. Define the scope of public legal relations.*
- 2. What violations were committed in the situation described?*
- 3. Analyze the board's decision. 4. What decision should the court make?*

List of regulatory legal acts and literature

Regulatory and legal acts:

1. On approval of the list of especially valuable soils: order of the State Committee for Land Affairs of Ukraine dated 06 Oct. 2003 p. № 245. Official Gazette of Ukraine. 2003. № 45. Art. 2369.
2. On land protection: Law of Ukraine of June 19, 2003, No. 962-IV. Bulletin of the Verkhovna Rada of Ukraine. 2003, No. 39, Art. 349.
3. On the Protection of Cultural Heritage: Law of Ukraine of June 8, 2000 No. 1805-III. Bulletin of the Verkhovna Rada of Ukraine. 2000. No. 39. Art. 333.
4. On Environmental Protection: Law of Ukraine of June 25, 1991 No. 1264-XII. Bulletin of the Verkhovna Rada of Ukraine. 1991. No. 41. Art. 546.
5. On the Nature Reserve Fund of Ukraine: Law of Ukraine of June 16, 1992 No. 2456-XII. Bulletin of the Verkhovna Rada of Ukraine. 1992. No. 34. Art. 502.
6. Land Code of Ukraine: Code of Ukraine; Law of 25.10.2001 No. 2768-III. Bulletin of the Verkhovna Rada of Ukraine. 2002. No. 3–4. Art. 27.
7. On Amendments to Certain Legislative Acts of Ukraine on Addressing the Issue of Collective Land Ownership, Improving Land Use Rules in Agricultural Land Massifs, Preventing Raids and Stimulating Irrigation in Ukraine. Law of Ukraine of July 10, 2018 No. 2498–VIII. Bulletin of the Verkhovna Rada of Ukraine. 2018. No. 37. Art. 277.
8. On land management: Law of Ukraine dated 22.05.2003 No. 858-IV. Bulletin of the Verkhovna Rada of Ukraine. 2003. No. 36. Art. 282.

9. Civil Code of Ukraine: Code of Ukraine; Law. Code of 16.01.2003 No. 435-IV. Bulletin of the Verkhovna Rada of Ukraine. 2003. No. 40–44, p. 356
10. Constitution of Ukraine dated 28.06.1996 No. 254k / 96 - BP . URL : <https://zakon.rada.gov.ua/laws/show/254k/96-bp#Text> .
11. Land Code of Ukraine dated 25.10.2001 No. 2768-III. URL: <https://zakon.rada.gov.ua/laws/show/2768-14#Text>.
12. On land lease: Law of Ukraine dated 06.10.1998 No. 161-XIV. URL: <https://zakon.rada.gov.ua/laws/show/161-14#Text>
13. On state registration of real rights to real estate and their restrictions: Law of Ukraine dated 01.07.2004 No. 1952-IV. URL: <https://zakon.rada.gov.ua/laws/show/1952-15#Text>
14. On the Fundamentals of Urban Planning: Law of Ukraine No. 2781-XII dated November 16, 1992. URL: <https://zakon.rada.gov.ua/laws/show/2780-12#Text>.
15. Decision of the Constitutional Court of Ukraine in the case on the constitutional submission of the Supreme Administrative Court of Ukraine in the case on the official interpretation of the provisions of Part 1 of Article 143 of the Constitution of Ukraine, Subparagraphs "a", "b", "c", "d" of Article 12 of the Land Code of Ukraine, Clause 1 of Part 1 of Article 17 of the Code of Administrative Procedure of Ukraine in case No. 1-6/2010 dated 01.04.2010 No. 10-пп/2010. URL: <https://zakon.rada.gov.ua/laws/show/v010p710-10#Text>
16. Decision of the Constitutional Court of Ukraine in the case on the constitutional submission of 51 people's deputies of Ukraine on the compliance with the Constitution of Ukraine (constitutionality) of the provisions of Article 92, paragraph 6 of Section X "Transitional Provisions" of the Land Code of Ukraine (case on permanent use of land

plots) in case No. 1-17/2005 dated September 22, 2005, No. 10-pp/2010. URL: <https://zakon.rada.gov.ua/laws/show/v005p710-05#Text>

17. Decision of the European Court of Human Rights in the case of “Zelenchuk and Tsytsyura v. Ukraine” dated 22.05.2018, applications No. 846/16 and No. 1075/16. URL: https://zakon.rada.gov.ua/laws/show/974_c79#Text

18. Constitution of Ukraine dated 28.06.1996 No. 254k/96-BP. URL: [https://zakon.rada.gov.ua/laws/show/254 k /96- bp #Text](https://zakon.rada.gov.ua/laws/show/254_k/96- bp #Text).

19. Land Code of Ukraine dated 25.10.2001 No. 2768-III. URL: <https://zakon.rada.gov.ua/laws/show/2768-14#Text>.

20. Civil Code of Ukraine dated 16.01.2003 No. 435-V. URL: <https://zakon.rada.gov.ua/laws/show/435-15#Text>

21. Code of Ukraine on Subsoil dated 27.07.1994 No. 132/94-BP. URL: <https://zakon.rada.gov.ua/laws/show/132/94-%D0%B2%D1%80#Text>

22. Forest Code of Ukraine dated January 21, 1994, No. 3852-XII. URL: <https://zakon.rada.gov.ua/laws/show/3852-12#Text>

23. Water Code of Ukraine dated 06.06.1995 No. 213/95-BP. URL: <https://zakon.rada.gov.ua/laws/show/213/95-%D0%B2%D1%80#Text>

24. On Environmental Protection: Law of Ukraine No. 1264-XII of June 25, 1991. URL: <https://zakon.rada.gov.ua/laws/show/1264-12>

25. On state registration of real rights to real estate and their restrictions: Law of Ukraine dated 01.07.2004 No. 1952-IV. URL: <https://zakon.rada.gov.ua/laws/show/1952-15#Text>

26. On Land Management: Law of Ukraine No. 858-IV of May 22, 2003. URL: <https://zakon.rada.gov.ua/laws/show/858-15#Text>.

27. On Land Lease: Law of Ukraine dated 06.10.1998 No. 161-XIV. URL: <https://zakon.rada.gov.ua/laws/show/161-14#Text>
28. On Land Reclamation: Law of Ukraine No. 1389-XIV of January 14, 2000. URL: <https://zakon.rada.gov.ua/laws/show/1389-14#Text>
29. On the procedure for allocating land plots in kind (on the ground) to owners land shares (shares): Law of Ukraine dated 05.06.2003 No. 899-IV. URL: <https://zakon.rada.gov.ua/laws/show/899-15#Text>
30. Land Code of Ukraine dated 25.10.2001 No. 2768-III. URL: <https://zakon.rada.gov.ua/laws/show/2768-14#Text>.
31. On Architectural Activities: Law of Ukraine No. 687-XIV of May 20, 1999. URL: <https://zakon.rada.gov.ua/laws/show/687-14#Text>.
32. On the improvement of populated areas: Law of Ukraine dated 06.09.2005 No. 2807-IV. URL: <https://zakon.rada.gov.ua/laws/show/2807-15#Text>.
33. On building codes: Law of Ukraine dated 5.11. 2009 № 1704-VI. URL: <https://zakon.rada.gov.ua/laws/show/1704-17#Text>.
34. On the use of defense lands: Law of Ukraine No. 1345 IV of November 27, 2003. URL: <https://zakon.rada.gov.ua/laws/show/1345-15#Text>.
35. On the General Planning Scheme of the Territory of Ukraine: Law of Ukraine No. 3059-III dated 07.02.2002. URL: <https://zakon.rada.gov.ua/laws/show/3059-14#Text>.
36. On energy lands and the legal regime of special zones of energy facilities: Law of Ukraine dated 09.07.2010 No. 2480-VI. URL: <https://zakon.rada.gov.ua/laws/show/2480-17#Text>.

37. On industrial parks: Law of Ukraine dated 21.06.2012 No. 5018-VI. URL: <https://zakon.rada.gov.ua/laws/show/5018-17#Text>.
38. On seaports of Ukraine: Law of Ukraine dated 17.05.2012 No. 4709-VI. URL: <https://zakon.rada.gov.ua/laws/show/4709-17#Text>.
39. On the Fundamentals of Urban Planning: Law of Ukraine No. 2781-XII dated November 16, 1992. URL: <https://zakon.rada.gov.ua/laws/show/2780-12#Text>.
40. On the Regulation of Urban Planning Activities: Law of Ukraine No. 3038-VI of February 17, 2011. URL: <https://zakon.rada.gov.ua/laws/show/3038-17#Text>.
41. On Transport: Law of Ukraine No. 232/94-BP dated 10.11.1994. URL: <https://zakon.rada.gov.ua/laws/show/232/94-Bp #Text> .
42. On pipeline transport: Law of Ukraine dated 15.05.1996 No. 192/96-BP. URL: <https://zakon.rada.gov.ua/laws/show/192/96-Bp #Text> .
43. Question adoption in operation finished construction objects : Resolution Cabinet Ministers Ukraine dated 13.04.2011 , No. 461. URL: <https://zakon.rada.gov.ua/laws/show/461-2011-%D0%BF#Text>.
44. About some question implementation preparatory and construction works : Resolution Cabinet Ministers Ukraine dated 13.04.2011 No. 466. URL: <https://zakon.rada.gov.ua/laws/show/466-2011- p #Text>.
45. On approval of the Procedure for State Architectural and Construction Supervision: Resolution of the Cabinet of Ministers of Ukraine dated August 19, 2015 No. 698. URL: <https://zakon.rada.gov.ua/laws/show/698-2015-%D0%BF#Text>.
46. On the urban planning cadastre: Resolution of the Cabinet of Ministers of Ukraine dated May 25, 2011 No. 559. URL: <https://zakon.rada.gov.ua/laws/show/559-2011- p #Text>.

47. About approval List objects construction , for designing whose urban planning conditions and limitation not are provided : Order Ministry of Regional Development Ukraine dated 6.11.2017 No. 289. URL: <https://zakon.rada.gov.ua/laws/show/z1437-17>.

48. On approval of the Procedure for issuing a construction passport for land development

plots: Order of the Ministry of Regional Development of Ukraine dated 05.07.2011 No. 103. URL: <https://zakon.rada.gov.ua/laws/show/z0902-11#Text>.

49. About approval In order transfer summer cottages and garden houses that respond state construction norms , in lived houses : Resolution Cabinet Ministers of Ukraine No. 321 of April 29, 2015. URL: <https://zakon.rada.gov.ua/laws/show/321-2015- p #Text>.

50. On approval of the Procedure for conducting an inspection of construction facilities put into operation: Resolution of the Cabinet of Ministers of Ukraine dated April 12, 2017 No. 257. URL: <https://zakon.rada.gov.ua/laws/show/257-2017- p #Text>.

51. On approval of the Model Rules for the improvement of the territory of populated areas: Order of the Ministry of Regional Development, Construction and Housing and Communal Services of Ukraine dated 27.11.2017 No. 310. URL: <https://zakon.rada.gov.ua/laws/show/z1529-17#Text>

52. DBN B.2.2-12:2019 “Planning and development of territories”. URL: https://dbn.co.ua/load/normativy/dbn/b_2_2_12/1-1-0-1802.

53. On Amendments to Certain Legislative Acts of Ukraine Regarding the Conditions for the Circulation of Agricultural Land: Law of Ukraine No. 552-IX of March 31, 2020. URL: <https://zakon.rada.gov.ua/laws/show/552-20#Text>

54. On amendments to certain legislative acts of Ukraine regarding the improvement of management systems and deregulation in the field of land relations: Law of Ukraine No. 1423-IX of April 28, 2021. URL: <https://zakon.rada.gov.ua/laws/show/1423-20#n412>

55. On some measures for the preservation and restoration of forests: Decree of the President of Ukraine dated June 7, 2021 No. 228/2021. Official Gazette of Ukraine. 2021. No. 46. Art. 2843.

56. Concept of the National Targeted Program for the Use and Protection

lands: Order of the Cabinet of Ministers of Ukraine dated January 19, 2022 No. 70-r.

URL: <https://zakon.rada.gov.ua/laws/show/70-2022-%D1%80?find=1&text=%D0%B7%D0%B1%D0%B5%D1%80#Text> .

57. About introduction changes to some legislative acts Ukraine of preservation forests : Law Ukraine dated June 20, 2022 No. 2321-IX. URL: <https://zakon.rada.gov.ua/laws/show/2321-20#Text>

58. On the State Land Cadastre: Law of Ukraine dated 07.07.2011 No. 3613-

VI. URL: <https://zakon.rada.gov.ua/laws/show/3613-17#Text>

59. On land management: Law of Ukraine dated 22.05.2003 No. 858-IV. URL: [://zakon.rada.gov.ua/laws/main/858-15#Text](https://zakon.rada.gov.ua/laws/main/858-15#Text)

60. On State Control over the Use and Protection of Lands: Law of Ukraine No. 963-IV of 19.06.2003. URL: <https://zakon.rada.gov.ua/laws/show/963-15#Text>

61. On state registration of real rights to real estate and their encumbrances:

Law of Ukraine dated 01.07.2004 No. 1952-IV as amended on 26.11.2015 No. 834 – VII.

URL: <https://zakon.rada.gov.ua/laws/show/1952-15#Text>

62. On approval of the Procedure for maintaining the State Land Cadastre: Resolution of the Cabinet of Ministers of Ukraine dated October 17, 2012 No. 1051. URL: <https://zakon.rada.gov.ua/laws/show/1051-2012-%D0%BF#Text>

63. On state registration of real rights to real estate and their encumbrances: Resolution of the Cabinet of Ministers of Ukraine dated 25.12.2015 No. 1127. URL: <https://zakon.rada.gov.ua/laws/show/1127-2015-%D0%BF#Text>

64. Procedure for state registration of real rights to real estate and their encumbrances: approved by Resolution of the Cabinet of Ministers of Ukraine dated 12/25/2015 No. 1127 (as amended on 08/23/2016 No. 553). URL: <https://zakon.rada.gov.ua/laws/show/1127-2015-%D0%BF#n236>.

65. On approval of the Procedure for maintaining the State Register of Real Rights to Real Estate: Resolution of the Cabinet of Ministers of Ukraine dated October 26, 2011 No.

1141 (as amended on June 6, 2018, No. 484). URL: <https://zakon.rada.gov.ua/laws/show/1141-2011-%D0%BF#Text>

66. Procedure for providing information from the State Register of Real Property Rights property: approved by the Resolution of the Cabinet of Ministers of Ukraine dated 25.12.2015 No. 1127 (in ed. dated 26.06.2019, No. 599). URL: <https://zakon.rada.gov.ua/laws/show/599-2019-%D0%BF#n43>

67. Procedure for access to the State Register of Real Rights to Real Estate: approved by Resolution of the Cabinet of Ministers of Ukraine dated 25.12.2015 No. 1127 (as amended by

06.06.2018 No. 484). URL: <https://zakon.rada.gov.ua/laws/show/484-2018-%D0%BF#n548>

68. On approval of the Regulation on land monitoring: Cabinet resolution

of Ministers of Ukraine dated August 20, 1993 No. 661. URL: <https://zakon.rada.gov.ua/laws/show/661-93-%D0%BF#Text>

Literature:

1. Antonova S. Ye., Zhuryk M. Ye. State control over land use and protection: regional aspect. State administration: Improvement and development. 2021. No. 2. URL: http://www.dy.nayka.com.ua/pdf/2_2021/34.pdf

2. Balyuk G. I., Rakhnyanska T. O. Lands for health purposes. Great Ukrainian Legal Encyclopedia: in 20 vols. Vol. 16: Land and Agrarian Law / editors: M. V. Shulga (chairman), V. V. Nosik, P. F. Kulynych (deputy chairmen), and others; National Acad. of Law Sciences of Ukraine; V. M. Koretsky Institute of State and Law of the NAS of Ukraine; Yaroslav the Wise National University of Law. Kharkiv: Pravo, 2019. pp. 285–290.

3. Balyuk G. I., Rakhnyanska T. O. Lands of nature reserve and other nature conservation purposes. Great Ukrainian Legal Encyclopedia: in 20 vols. Vol. 16: Land and Agrarian Law / editors: M. V. Shulga (chairman), V. V. Nosik, P. F. Kulynych (deputy chairmen), and others; National Acad. of Law Sciences of Ukraine; V. M. Koretsky Institute of State and Law of the NAS of Ukraine; Yaroslav the Wise National University of Law. Kharkiv: Pravo, 2019. pp. 290–293.

4. Barabash N. P. Legal support for the targeted use of land for industry, transport, communications, energy, defense and other purposes.

Law and Society. 2018. No. 1. P. 133-138.

5. Barabash N. P. Problematic aspects of consolidating the concept of "land for industry, transport, communications, energy, defense and other purposes" in the legislation of Ukraine. *Young Scientist*. 2017. No. 6. P. 91-95.
6. Bondar O. Public administration in the field of land use and protection in Ukraine: current problems of legal and institutional support. *Law of Ukraine*. 2020. No. 5. P. 43 - 62.
7. Bordenyuk O. V. Legal regime of pipeline transport lands in Ukraine: Dissertation ... Candidate of Law. Odesa, 2016. 196 p.
8. Busuyok D. V. Legal regulation of the emergence, exercise and termination of land rights: a textbook, edited by P. F. Kulynych. Kyiv: Publishing House of the European University, 2010. 185 p.
9. Busuyok D. Administrative and service legal relations in the land law of Ukraine: monograph. Kyiv: Nika-Center, 2017. 352 p.
10. Great Ukrainian Legal Encyclopedia: in 20 vols. Vol. 16: Land and Agrarian law / editors: M. V. Shulga (chairman), V. V. Nosik, P. F. Kulynych (deputy chairman) and others; National Acad. of Law Sciences of Ukraine; V. M. Koretsky Institute of State and Law of the NAS of Ukraine; Ya. Mudryi National Law University. 2019. 696 p.
11. Gavrish N., Stepska O. Particularly valuable lands as an object of legal protection. *Entrepreneurship, economy and law*. 2017. No. 1. P. 102-106.
12. Gordeev V.I. Water Fund Lands. Great Ukrainian Legal Encyclopedia T. 16: Land and Agrarian Law / editors: M. V. Shulga (chairman), V. V. Nosik, P. V. Kulynych (deputy chairmen), and others; National Acad. of Law Sciences of Ukraine;

V. M. Koretsky Institute of State and Law of the NAS of Ukraine; Yaroslav the Wise National Law University. 2019. 696 p. pp. 263–269.

13. Hrynko S.D., Kostyashkin I.O. Land ownership rights of territorial communities. University scientific notes. 2020. No. 6 (78), pp. 174-183

14. Dombrovan N. V., Izbash K. S. Current status of the impact of the moratorium on the sale and

Alienation of agricultural land in Ukraine. South Ukrainian Legal Journal. 2019. No. 4. Part 2. P. 116-120.

15. Droval O.M. Legal regime of water fund lands: author's abstract of dissertation ... candidate of legal sciences. Kharkiv, 2016.

16. Dudka O. On the possibility of registering ownership of a state-owned plot property outside the settlement. Land Management Bulletin. 2019. No. 12. P. 61.

17. Yermolenko V.M. Sources of Agrarian Law: Monograph. Helvetica Publishing House, 2021. 510 p.

18. Land law of Ukraine: a textbook / A. I. Ripenko, O. M. Pashchenko. Kyiv: VD "Dakor", 2016. 236 p.

19. Land law of Ukraine: a textbook / I.I. Karakash, V.D. Sydor, T.E. Kharitonova and others; edited by I.I. Karakash and T.E. Kharitonova. 2nd ed., revised and supplemented. Odesa: Jury. lit., 2017. 588 p.

20. Land law: textbook / M. V. Shulga, N. O. Bagai, V. I. Gordeev and others; edited by M. V. Shulga. Kharkiv: Pravo, 2013. 520 p.

21. Ignatenko I. V. Legal support for land zoning within settlements: monograph. Kharkiv: Finart, 2014. 274 p.

22. Ignatenko I. V. Spatial planning as a tool for managing the territorial development of a community: legal aspects. *Law and Society*. 2022. No. 3. P. 130-135.
23. Ignatenko I. V. Peculiarities of legal regulation of the use of artificially created land plots for the development of territories. *Law and Society*. 2020. No. 1. P. 221-227.
24. Karakasch I. I. Ownership of natural objects and their resources in Ukraine: monograph. Odesa: Legal Literature, 2017. 438 p.
25. Kovalenko T. O. Legal defects of legal regulation of land relations in Ukraine: monograph. Kyiv: Publishing and printing center "Kyiv University"; Yurinkom Inter, 2013. 632 p.
26. Kovalenko T. The practice of the European Court of Human Rights as a source of land law in Ukraine. *Legal Ukraine*. 2016. No. 11–12. Pp. 82–88.
27. Kovalenko T. The legal nature of the charter of a territorial community as a source Land Law of Ukraine. *Public Law: Scientific and Practical Legal Journal*. 2018. No. 2. Pp. 199-207.
28. Kovda N. I., Zabarna N. R. Problems and prospects of land reform implementation in the context of decentralization. *State Administration: Improvement and Development*. 2020. No. 1. URL: http://www.dy.nayka.com.ua/pdf/11_2020/102.pdf
29. Kornienko G.S. Certain issues of legal support for farm land use in the conditions of the land market. *Problems of legality*. 2020. No. 148. P. 162-168.
30. Kostyuchenko M.S. Legal regulation of the lease of water bodies in Ukraine: dissertation ... candidate of legal sciences: 12.00.06. Kharkiv, 2018. 231 p.
31. Kostyashkin I. O. Legal support for the social function of property rights

Land in Ukraine: monograph. Khmelnytsky: Publishing House of Khmelnytskyi University of Management and Law,

2016. 429 p.

32. Kuzmenko N.O. Decisions of local self-government bodies in the mechanism of legal regulation of land relations: monograph. Kyiv: Alerta, 2018. 264 p.

33. Kuzmina M. Problems of creating renewable energy facilities. Enterprise, Economy and Law. 2018. No. 12. Pp. 115-118.

34. Kulynych A. P. Lands of urban territorial communities: problems of forming a legal regime: monograph. Kyiv: TALKOM, 2019. 267 p.

35. Kulynych A. P. Legal regime of urban territorial communities in Ukraine: dissertation ... candidate of legal sciences: 12.00.06. Kyiv, 2019. 249 p.

36. Kulynych P. F. Legal problems of protection and use of agricultural lands in Ukraine: monograph. Kyiv: Logos, 2011. 688 p.

37. Kulynych P.F. Land reform in Ukraine: legal problems: monograph. Kyiv.

Rule of law. 2021. 308 p.

38. Leiba L. V. Lands of historical and cultural significance. Great Ukrainian Legal Encyclopedia: in 20 volumes. Vol. 16: Land and Agrarian Law / editor: M. V.

Shulga (chairman), V. V. Nosik, P. F. Kulynych (deputy chairmen), etc.; National Academician of Law.

Sciences of Ukraine; V. M. Koretsky Institute of State and Law of the NAS of Ukraine; Yaroslav the Wise National Law University. Kharkiv: Pravo, 2019. pp. 277–281.

39. Lisova T. V Legal support for land restoration: theoretical and practical

problems: monograph. Kharkiv: Yurayt, 2020. 396 p.

40. Lisova T. V. Legal support for land management in Ukraine: monograph. Kharkiv: CJSC "Kharkiv Printing House No. 16", 2005. 168 p.

41. Malokhlib O. S. Legal principles of using land plots for housing construction: monograph. Kharkiv: Yurayt, 2021. 176 p.

42. Mykytyn V., Marynyak I. Problems of the legal status of the lands of the water fund of Ukraine. Current problems of jurisprudence. 2017. Issue 4 (12). P.212-215.

43. Miroshnychenko A. M. Land Law of Ukraine: textbook. 3rd ed., supplement. I revision. Kyiv: Alerta, 2013. 512 p.

44. Acquisition and implementation of land rights in Ukraine: textbook, edited by I. I. Karakasha. Odesa: Jury. Lit., 2016. 332 p.

45. Scientific and practical commentary on the Land Code of Ukraine / A.M. Miroshnychenko, R.I. Marusenko. 5th ed., amendments and additions. Kyiv: Alerta, 2013. 544 p.

46. Nosik V. V. The Right of Ownership of Land of the Ukrainian People: Monograph. Kyiv: Yurinkom Inter, 2006. P. 497.

47. Omelchuk O. M., Chudyk-Bilousova N. I., Taranenko L. S. Procedures for acquiring land ownership. University Scientific Notes, 2020 No. 6 (78), pp. 158-173.

48. Osadchy S. Yu. Legal principles of use and protection of pipeline transport lands: dissertation ... candidate of legal sciences. Kharkiv, 2018. 212 p.

49. Manual for preparing for the exam in land law / D. V. Sannikov, M. V. Shulga, V. I. Gordeev and others. Kharkiv: Pravo, 2021. 376 p.

50. Pravdyuk V. M. Division of land by purpose under the legislation of Ukraine: monograph. Kyiv, 2018. 203 p.
51. Legal positions of the Grand Chamber of the Supreme Court in disputes arising from
Land legal relations: manual / L.A. Shvetsova et al. Kharkiv, 2021. 908 p.
52. Ratushna S.I. The right of joint ownership of a land plot: dissertation ... candidate of legal sciences: 12.00.06. Khmelnytskyi, 2021. 251 p.
53. Ripenko A. I. Land use for urban planning needs: theoretical and practical problems: monograph. Kherson: Helvetika, 2019. 496 p.
54. Sydor V. D. Recreational lands. Great Ukrainian Legal
Encyclopedia: in 20 vols. Vol. 16: Land and Agrarian Law / editors: M. V. Shulga (chairman), V. V. Nosik, P. F. Kulynych (deputy chairmen), and others; National Academician of Law Sciences of Ukraine; V. M. Koretsky Institute of State and Law of the NAS of Ukraine; Yaroslav the Wise National University of Law. Kharkiv: Law, 2019. pp. 296–300.
55. Sydor V. D. Methodological principles and historical prerequisites for the formation of modern land legislation and law of Ukraine: monograph. National University "Odessa. Law Academician". Chernivtsi: Tekhnodrukt, 2013. 207 p.
56. Sytnik T. M. Legal regime of lands occupied by green spaces in settlements: dissertation ... candidate of legal sciences. Kyiv, 2017. 234 p.
57. Taranova O.T. Problematic aspects of the activity of the register of real rights to real estate in Ukraine. Dnipro Scientific Journal of Public Administration, Psychology, and Law. 2021. No. 1. P. 140 – 143.

58. Tereshchuk V. S. Legal principles of use and protection of maritime transport lands in Ukraine: dissertation ... candidate of legal sciences. Odesa, 2020. 187 p.
59. Titova S. Peculiarities of the process of forming land easement and land for defense purposes. Bulletin of the Taras Shevchenko National University of Kyiv. Military and Special Sciences. 2018. Issue 2. Pp. 65-70.
60. Tretyak A. M. The concept and essence of defense land use in Ukraine. Land management, cadastre and land monitoring. 2018. No. 3. P. 21-34.
61. Tretyak T.O. Good Neighborliness in the Land Law of Ukraine: monograph. Kyiv: Alert, 2019. 386 p.
62. Ushchapovska O. I. Planning in the land law of Ukraine: dissertation ... candidate of sciences. jurid. sciences: 12.00.06 / Kyiv. National University named after T. Shevchenko, National University named after Ya. Mudry. Kharkiv, 2019. 204 p.
63. Fedchyshyn D. V. Legal support for the use and protection of public development lands: monograph. Kharkiv, 2015. 248 p.
64. Fedchyshyn D. V. Implementation and protection of land rights in Ukraine: problems of theory and practice: monograph. Kherson: Helvetika, 2020. 418 p.
65. Kharytonova T. E. Exercising rights to other people's land plots in Ukraine: problems of theory and practice: monograph. Odesa: Juryd. lit., 2016. 424 p.
66. Cheremis O. O. Land offense in the field of urban planning as a basis Legal Responsibility: Dissertation ... Candidate of Law. Kyiv, 2021. 247 p.
67. Chiryk A. O. Joint partial ownership of a land plot: monograph; by

General editor: Prof. M. V. Shulga. Kharkiv: Yurayt, 2020. 172 p.

68. Sharapova S.V. Features of the integrated use and protection of land. Law and Society. 2019. No. 2 Part 1. P. 104-109.

69. Sharapova S.V. Legal support for the protection of forestry lands. Problems of legality. 2017. No. 139. Pp. 155-163.

70. Shcherbyna M. S. The principle of unity of the legal fate of a land plot and real estate objects located on it: dissertation ... candidate of legal sciences. Kyiv, 2016. 200 p.