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PLACE OF PUBLIC AUTHORITIES IN THE LAND RESOURCE MANAGEMENT SYSTEM IN THE CONDITIONS OF DECENTRALIZATION

The article deals with the problem of the lack of local self-government bodies' real power to dispose of land resources in the context of decentralization in Ukraine, failure to observe the principle of "ubiquity of local self-government".

Key words: land resources; public authorities; local self-government bodies; executive authorities; territorial communities; management; decentralization.

Problem setting. According to the Land Code of Ukraine, the Law of Ukraine "On Local Self-Government in Ukraine", etc. the state authorities and local self-government bodies take concrete measures to implement state land policy at the regional and local levels.

Lack of an efficient system of land management, especially at the national level, inconsistency of local authorities' activities on the socio-economic development of territorial communities with regard to their interests, removal of local self-government in addressing issues in the field of land relations, lack of budget financing for the development of territories lead to ineffective use of land resources, deterioration of investment attractiveness of territories, increase of social tension in rural areas [1].

The beginning of decentralization in Ukraine faces with many issues, the main one is the insufficient amount of financial resources that territorial communities have at their disposal. This problem calls into question the effectiveness of territorial and administrative reform in the country and needs to be solved in the short term [2].

Exploring the land management system in Ukraine and the place of public authorities in this system, we note that there are significant legal conflicts in the management of land resources by territorial communities, especially with regard to new, in most united territorial communities. Based on the findings of the USAID and

the All-Ukrainian Association of Rural and Settlement Councils, it is possible to identify the following problems of land management of territorial communities in the country: unspecified boundaries of community territory; inability to dispose of land outside settlements; underpayment of local budget revenues from land payments; inability to draw up plans due to insufficient information on land resources; pollution of land; refusal to meet the needs of citizens in land plots; attracting investors and doing business on community lands; reservation of prospective areas for development of community; poor quality of care for reclamation systems; illegal use of forests [3].

Recent research and publications analysis. O. Pronina, O. Kostyshyn, O. Dorosh, etc. were engaged in the study of land recourses management in the process of power decentralization in Ukraine. Despite the considerable number of publications, the place of public authorities in the system of land resources management in the conditions of decentralization has not been sufficiently explored by national science.

Highlighting previously unsettled parts of the general problem. These are issues in the field of land resources management in Ukraine, which directly relate to the powers of local councils in this field. Outlining the negative consequences of limiting the "land" jurisdiction of the united territorial communities. Identifying the necessary legislative initiatives to delegate authority to the united territorial communities to dispose of land outside settlements. Substantiation of opportunities of the united territorial communities in terms of infrastructure development, construction of roads, allocation of land plots for solar and wind energy objects.

Paper main body. Since its inception, the state has owned and still owns certain land parcels on a proprietary basis. Undoubtedly, it will continue to have the right of ownership of the relevant land resources in order to carry out its functions in order to fulfill the national tasks and satisfy the public interests of the society.

It is known that in the Soviet period ownership of land and other natural resources existed in an exclusive form, which meant the removal of all subjects except the state from the right to participate in land ownership and other natural resources. Thus, the state was the sole owner of land and other natural resources. However, no specific owner was identified by law in the face of any state formation. And this led to the establishment not of state ownership of land and its wealth, but of administrative, administrative and bureaucratic bureaucracy.

In today's context, one of the most important features of building a democratic state, strong regions and prosperous communities is the development of local self-government. The development of Ukraine, society, and individual territorial communities is determined by many factors of economic, political and social nature. However, it can be stated unequivocally that a necessary prerequisite for the socio-economic revival of the rural territories of Ukraine is the sustainable development of the system of local self-government and the active involvement of each member of the rural community in addressing issues of national and local importance. At the present stage of socio-economic development in Ukraine, the management of land

resources is carried out within the framework of the norms of the Constitution of Ukraine, the Land Code of Ukraine, as well as taking into account the current sectoral normative legal acts and local norms. According to these acts, local self-government bodies are the main subject of the process of managing land resources at the level of territorial communities. During the time of independence, Ukraine has accumulated some domestic experience in forming and developing a mechanism for managing land resources. At the same time, there is an active search for a mechanism of improvement, including the use of foreign experience, where land management has a long history and a large arsenal of mechanisms for its regulation. Land management is governed by administrative and civil law or professional laws, in foreign countries, land law is not defined as a separate industry, their regulations define certain types of land relations, which include land lease, land turnover, etc., as well as laws on agrarian and land reforms. At the same time, the constitutions of foreign countries reflect the basic principles of land management. First and foremost, the material and financial resources received and disposed of by the territorial community and which form the material and financial base of local self-government, this determine the realities of local self-government. Accordingly, the material and financial base of local self-government development can be attributed to local budget revenues, movable and immovable property, land, natural resources that take place in the territorial communities of villages, settlements, cities, districts in cities, as well as the objects of their joint property under the management of district and regional councils. In general, assessing the actual state of the local government institution, we can conclude that in the context of administrative and territorial reform in Ukraine it is not necessary to assume that the process of forming a local government institution has already taken place, and the forms and means of protecting the rights and guarantees of residents are exhausted. Therefore, the search for optimization of the local government system is very important. Thus, the management of land resources of communities acquires a new quality and content in the conditions of decentralization of power, which is specified in the national legislation on voluntary association of territorial communities, because within the united territorial community there can be no other territorial community having a certain representative local self-government, and the space of the united territorial community should be united, the boundaries of the united territorial community are determined by the external borders of the jurisdiction of the councils of territories orialnyh communities together.

In our view, it is extremely difficult to build democracy without the development of local self-government and to confer on it certain powers and resources that would enable the effective development of territorial communities if the choice of government was chosen to be optimal. Local self-government in relation to land management is carried out only within administrative-territorial units (settlements), and a large part of the territory of the country is outside the defined boundaries of territorial communities and its executive bodies, which contradicts the principle of ubiquity of local self-government regulated by European Charter. Therefore, this approach to

the formation of local self-government settlements is not in line with the practice of foreign countries where local self-government is implemented within administrative-territorial units, including at the primary level, which integrate both the territory of the settlement and the adjacent territory. Regulating and strengthening the influence of local governments on land relations is an important segment of the system of regulation and management of the property complex of the country as a whole. This is especially noticeable given that as of today the land fund of Ukraine makes up over 5,7% of the territory of Europe.

The term "land" is used in several meanings, namely: the object of ownership of the Ukrainian people; object of property rights of citizens, legal entities and the state; the object of the right of the territorial community; a subject of special protection by the state (national wealth). Having the status of an object, land is always at the center of land relations (a form of social relations) between the subjects of such relations. Land relations, in turn, are social relations regarding the ownership, use and disposal of land. It is important to specify the range of subjects of land relations. They include individuals and legal entities, local self-government bodies and public authorities.

Territorial communities and the state act as special subjects of land legal relations through the respective bodies of public authorities.

The authorities, as well as local self-governments, are primarily the subjects of land relations, regulating land relations, as well as monitoring the observance of land legislation. In such land relations, they exercise the functions and powers assigned to them that characterize them as power-regulating or power-organizing.

Among other things, territorial communities and the state are the subjects of land relations as owners (stewards) of land. At the same time, these two entities of public authority are endowed with a disproportionate amount of power to possess, use and dispose of land resources. Accordingly, on their behalf in land relations, the subject's powers, in particular, exercise property rights in respect of communal property – local self-government bodies, and in respect of state property – the relevant executive authorities. Provisions on land ownership of territorial communities are enshrined in Art. 83 of the Land Code of Ukraine. It stipulates that land owned by the territorial communities of villages, settlements, cities, is communal property. It should be recalled that only land within the settlements is owned by the communal property, with the exception of land plots of private and state property and land on which buildings, structures, other real estate of communal property are located, regardless of their location.

It should be noted that the legislator lists the communal property lands that cannot be transferred to private property. This should be taken into account by local governments when deciding on land transfers. Failure to comply with this provision gives the outsider the opportunity to declare the decision to be taken in violation of applicable law and to raise the issue of its cancellation.

Yes, the communal property lands that cannot be transferred to private property include: public lands of settlements (squares, streets, driveways, paths, embankments,

beaches, parks, squares, boulevards, cemeteries, places of disposal and waste disposal, etc.); land under railways, roads, air and pipeline facilities; lands under the objects of the nature reserve fund, historical, cultural and health purpose, which have special ecological, health, scientific, aesthetic and historical and cultural value, unless otherwise provided by law; land for forestry purposes, except in cases specified by the Land Code of Ukraine; land of the water fund, except in cases specified by the Land Code of Ukraine; land plots used to support the activities of local governments; land created artificially within the coastal protection strip or drainage strip, on forest land and nature reserve land within the coastal protection strip of water bodies, or on land areas of the bottom of water bodies; land under the engineering infrastructure facilities of inter-municipal land-reclamation systems [4].

In addition, the legislator cites cases where territorial communities acquire land in communal ownership. This happens in the case of: transfer of state-owned land to them; alienation of land for public needs and for reasons of public necessity in accordance with the law; acceptance of inheritance; purchase under the contract of sale, rent, donation, mines, other civil legal agreements; the emergence of other grounds provided by law.

As of 01.01.2013, state and communal property lands in Ukraine are considered to be demarcated [5]. In this aspect it is important to understand: where is the land of communal property and where is the state. Accordingly, the state property is all the lands of Ukraine, except the lands of communal and private property, namely: located within the settlements of land plots: on which are located buildings, structures, other objects of immovable property of state property; which are in constant use by state authorities, state-owned enterprises, institutions, organizations, the National Academy of Sciences of Ukraine, state sectoral academies of sciences; belonging to the defense lands; land plots used by the Black Sea Fleet of the Russian Federation in the territory of Ukraine on the basis of international treaties, the consent of which of which was provided by the Verkhovna Rada of Ukraine; lands of exclusion zones and unconditional (compulsory) evacuation that have been contaminated by the Chornobyl disaster; all other lands located outside settlements, except for private property plots and land plots where buildings, structures, other real estate of communal property of the respective territorial community are located; which are in constant use of local self-government bodies, communal enterprises, institutions, organizations.

Before talking about the powers of local governments in the field of land management, it is necessary to recall one important norm, such as axioms, which must be governed by the heads and officials of local self-government. In Art. 19 of the Constitution of Ukraine stipulates that local governments, their officials are obliged to act only on the basis, within the powers and in the manner provided by the Constitution and laws of Ukraine [6]. The necessity to adhere to the same rule applies to public authorities. This principle is also reflected in the special legislation according to which the contents of local self-government bodies and their officials act only on the basis, within the powers and in the way provided by the Constitution

and laws of Ukraine, and are guided in their activity by the Constitution and laws of Ukraine, acts of the President. Ukraine, the Cabinet of Ministers of Ukraine, and in the Autonomous Republic of Crimea – also normative-legal acts of the Verkhovna Rada and the Council of Ministers of the Autonomous Republic of Crimea, adopted within the limits of their competence. Therefore, local self-government bodies, when making their decisions, should always ensure that every item of such an act meets the requirements of the current legislation. In turn, the perception of all the constituent entities of the above constitutional principle is a guarantee of compliance with the principles of land law in general. It should be noted that the land legislation is based on the following principles: the combination of features of land use as a territorial basis, natural resource and basic means of production; ensuring equal ownership of the land of citizens, legal entities, territorial communities and the state; non-interference by the state in the exercise by citizens, legal entities and territorial communities of their rights to own, use and dispose of land, except in cases provided by law; ensuring the rational use and protection of land; providing guarantees of land rights; priority of environmental safety requirements.

Consider in more detail the powers of local governments in the field of land management. They are defined both in the Law of Ukraine "On Local Self-Government in Ukraine" [7] and in the Land Code of Ukraine. Moreover, the powers belonging to representative bodies and, accordingly, executive bodies of local self-government should be demarcated. The legislature is still vested with representative bodies by much of the powers in the field of land relations. Such powers shall be exercised exclusively at plenary meetings of the village, town or city council, respectively, by decision-making. The village, settlement, city council conducts its work in session and within its powers adopts normative and other acts in the form of decisions. The Council is not entitled to delegate any land authority to any other authority. Therefore, the local council does not have the right to make a decision to transfer to any other local self-government body (or executive body, utility company, institution, organization) its powers for managing land resources, taking into account the fact that no legislative act provides for the right of the council to delegate its exclusive powers. The decision of the land council is adopted at a plenary meeting of the council by a majority of the general council.

In light of the developments around the decentralization of power reform in Ukraine, as regards the deconcentration of powers in the field of land management, it makes sense to dwell more precisely on the powers of local self-government bodies, as subjects of land management at the basic level. Thus, the current legislative framework provides that the powers of village, settlement, city councils in the field of land relations in the territory of villages, settlements, cities include: disposal of land by territorial communities; transfer of land plots of communal property to the property of citizens and legal entities in accordance with the requirements of the Land Code of Ukraine; provision of land for use from communal property lands in accordance with the Land Code of Ukraine. It should be noted that the above-mentioned powers

of local councils as of January 1, 2013 not only extend to the boundaries of the respective settlement, but can also be applied to land plots of communal property located outside settlements. Therefore, the phrase "in the territory of villages, towns, cities", which is still used in Art. 12 of the Land Code of Ukraine, the legislator should align with the content of the Law of Ukraine "On Amendments to Some Legislative Acts of Ukraine on the Delimitation of State and Communal Property Lands" and Art. 83 of the Land Code of Ukraine; withdrawal of land from communal property lands in accordance with the Land Code of Ukraine; purchase of land for public needs of the respective territorial communities of villages, settlements, cities; land management; coordination of activities of local authorities of land resources; exercising control over the use and protection of communal property lands, observance of land and environmental legislation; restrictions, temporary prohibition (suspension) of land use by citizens and legal entities in case of violation of land law requirements; preparation of conclusions on seizure (redemption) and provision of land plots in accordance with the Land Code of Ukraine; establishment and change of district boundaries in cities with district division; informing the population about foreclosure (land purchase), provision of land plots; submitting proposals to the district council on establishing and changing the boundaries of villages, towns and cities; settlement of land disputes; resolving other issues in the field of land relations in accordance with the law.

Relations with state ownership of land have received substantially other fixation in the legislation of the modern Ukrainian state. The state property is all the lands of Ukraine, except the lands transferred to private and communal property. The objects of state property are not only specific plots, but also all lands of the respective categories within the spatial boundaries of the state, which are not related to communal and private property. Separation of state property land is not based on the location of specific sites and the establishment of their boundaries on the earth's surface, but on the basis of the state border provides a separation of land from neighboring states (external) and from communal and private property (internal). An important feature of state land ownership is the legislative definition of land that is not subject to transfer to communal property [8].

Thus, the lands of state ownership that cannot be transferred to communal property include: the lands of nuclear power and space system; defense lands, with the exception of land under objects of socio-cultural, industrial and residential use; lands under the objects of the nature reserve fund and historical and cultural objects of national and national importance; land under water bodies of national importance; land plots that they use to support the activities of the Verkhovna Rada of Ukraine, the President of Ukraine, the Cabinet of Ministers of Ukraine and other bodies of state power.

These lands are intended to fulfill the state of its internal and external functions, they are used to satisfy the interests of the whole society and to perform national tasks. These lands are not restricted by category, size or location. It should be noted

that, given the functional purpose of land use, the list of land resources that cannot be transferred to communal property is not exhaustive.

Equally important is the legislative definition of state-owned land that is not subject to transfer into private property. Thus, state-owned lands that cannot be transferred to private property include: the lands of the nuclear power and space systems; lands under state railways, objects of state ownership of air and pipeline transport; defense lands; lands under the objects of the nature reserve fund, historical, cultural and health purpose, which have special ecological, health, scientific, aesthetic and historical and cultural value, unless otherwise provided by law; lands of forest and water resources, except in cases specified by land law; land plots that are used to support the activities of the Verkhovna Rada of Ukraine, the President of Ukraine, the Cabinet of Ministers of Ukraine and other bodies of state power, the National Academy of Sciences of Ukraine and state sectoral academies of sciences; land plots of exclusion and unconditional (compulsory) evacuation zones affected by the Chornobyl disaster.

It is not difficult to see that the list of state-owned land that is not subject to transfer to private property is wider than the list of land that cannot be transferred to communal property. However, this does not affect the implementation of the constitutional principle of equality of property right holders before the law, at least because private owners cannot be property owners of these lands. In addition, it should be borne in mind that communal lands, as well as state-owned land resources, are intended to satisfy the public interests of territorial communities. Therefore, in the structure of local budgets, land taxes and fees are prominent and should be one of the real budgeting tools.

The most significant equality of land ownership is characterized by the provisions of Part 2 of Art. 14 of the Constitution on the acquisition and realization of land ownership by the state on an equal basis with citizens and legal entities exclusively in accordance with the law. This constitutional principle was enshrined in the main land law. Thus, the state acquires the right of ownership of land in the case of: alienation of land from owners for reasons of public necessity and for public needs; purchase under contracts of sale, donation, mines and other civil agreements; acceptance of inheritance; transfer of land of communal property to the state by territorial communities; confiscation of land.

It is significant that in the above mentioned land law, in all cases of acquisition by the state of the ownership of land, there are land plots with the features of a separate object of law. The acquisition of such sites is carried out on the basis of the law, before which individuals and legal entities are equal with the state. As for the "lands" in the above-mentioned understanding of their legal personality, they were and remain the property of the state and there is no need for their "re-purchase".

These lands belong to our state on the basis of their natural appropriation by it as the successor of previous state entities.

It is important to identify a proper subject for the disposal of state-owned land. Thus, the subject of ownership of state-owned land is always the state as a political

and legal organization of the society, which exercises this right through the relevant public authorities, which exercise the powers related to the possession, use and disposal of the respective lands within the established limits of the name and in the interests of the state. State-owned lands belong to the state with all the social and legal consequences that follow. The relevant state authorities determine the Land Code of Ukraine: the Cabinet of Ministers of Ukraine, the Council of Ministers of the ARC, local state administrations – district and regional, Kyiv and Sevastopol city state, and state bodies of privatization, whose powers are stipulated in Art. 122 of the Land Code of Ukraine [9].

Within the powers of the Cabinet of Ministers of Ukraine in the field of land relations, the national legislator distinguishes the following: disposal of state property lands within the limits specified by this Code; implementation of state policy in the field of land use and protection; purchase of land for public needs in accordance with the procedure established by law; coordination of land reform; development and implementation of national programs of land use and protection; organization of state land cadastre, state control over land use and protection and land management; establishing the procedure for land monitoring; submitting proposals to the Verkhovna Rada of Ukraine on establishing and changing the boundaries of districts, cities; other issues related to land relations in accordance with the law.

Thus, the Council of Ministers of the Autonomous Republic of Crimea in the field of land relations is empowered to: dispose of state-owned land within the limits defined by this Code; participation in the development and implementation of national and national programs on land use and protection; coordination of land management and state control over land use and protection; preparation of conclusions on the granting or withdrawal (redemption) of land plots; purchase of land for public needs in accordance with the procedure established by law; control over the use of funds received in order to compensate for losses of agricultural and forestry production related to the seizure (redemption) of land; submitting proposals to the Cabinet of Ministers of Ukraine on establishing and changing the boundaries of districts, cities; other issues related to land relations in accordance with the law.

It is interesting to elaborate on the role of district state administrations as a subject of land management. Thus, in accordance with the requirements of special legislation, the powers of local state administrations in the field of land relations shall include: disposal of state-owned land within the limits defined by this Code; 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 granting or withdrawal (redemption) of land plots; purchase of land for public purposes within the limits set by law; drawing conclusions on the establishment and change of boundaries of villages, settlements, districts, districts in cities and cities; control over the use of funds received in order to compensate for losses of agricultural and forestry production related to the seizure (redemption) of land; coordination of activities of state bodies of land

resources; submitting proposals to the Cabinet of Ministers of Ukraine on establishing and changing the boundaries of districts, cities in the manner prescribed by law; other issues related to land relations in accordance with the law.

In particular, it is the responsibility of local state administrations, within the limits and forms defined by the Constitution and laws of Ukraine, to address the issues of land use and natural resources. In addition, the Law of Ukraine "On Local State Administrations" provides an expanded list of powers of district state administrations in the field of land use and protection, according to the content of which the district state administration: develops and ensures the implementation of programs of rational use of land, forests, enhancement approved by the law. fertility of state-owned soils; disposes of state-owned lands in accordance with the law; develops, submits for approval the relevant council and ensures implementation of regional environmental programs; reports to the relevant council on their implementation; submit proposals to the relevant authorities for state environmental programs; take measures to compensate for damage caused by violation of environmental legislation by enterprises, institutions, organizations and citizens; submit proposals to the relevant local self-government bodies on the organization of territories and objects of the local nature reserve fund; informs the population about ecologically dangerous accidents and situations, the state of the environment, as well as about the measures taken to improve it; organizes work on the elimination of the consequences of environmental accidents, engages in these works enterprises, institutions, organizations regardless of ownership and citizens; submit proposals in accordance with the procedure established by law for the termination of activity of enterprises, institutions and organizations, regardless of ownership, in case of violation of environmental protection legislation and sanitary rules; develops and ensures compliance with the rules for the use of water intake structures intended to meet drinking, domestic and other needs of the population, the zone of sanitary protection of water sources; restricts or prohibits the use of drinking water by enterprises for industrial purposes; controls the use of waste, taking into account their resource value and safety requirements for human health and the environment, and considers cases of administrative offenses or submits their materials to other state bodies for breach of waste legislation; approve documentation of land management in the cases and procedure specified by the Land Code of Ukraine and the Law of Ukraine "On Land Management" regarding the compliance of the said documentation with the legislation in the field of environmental protection; submits to the Cabinet of Ministers of Ukraine proposals on establishing and changing the boundaries of districts, cities in the manner prescribed by law.

On January 1, 2013, the Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine on the Delimitation of State and Communal Property Land" entered into force, which the legislator amended the Land Code of Ukraine, in particular, to Article 122 of the Land Code of Ukraine. In accordance with the adopted changes, the State Service of Ukraine for Geodesy, Cartography and Cadastre

and its territorial bodies have acquired substantially new powers to transfer agricultural land to state ownership of land or use it. Until January 1, 2013, the respective powers were within the competence of district state administrations.

According to the norms of the Land Code of Ukraine, the scope of powers of the central body of executive power implementing the state policy in the field of land relations also includes: submitting in the established order proposals on the disposal of state and communal property, setting boundaries of the region, district, city, and district in the city, villages and settlements, regulation of land relations; participation in the development and implementation of state, sectoral, regional and local programs on regulation of land relations, rational use of land, their reproduction and protection, establishment of boundaries of the region, district, city, district in the city, village and settlement, in conducting land monitoring, territorial planning; organization of works related to the implementation of land reform; conducting in accordance with the legislation of land monitoring and protection of land; maintenance and administration of the State Land Cadastre; participation in state regulation of territory planning; conducting state examination of land management documentation; implementation of measures to improve the order of accounting and preparation of reports on regulation of land relations, use and protection of land, formation of eco-network; disposal of state-owned land within the limits defined by this Code; resolution of other issues defined by the laws of Ukraine and assigned to it by the acts of the President of Ukraine.

In particular, the State Geocadastre exercises state control over: compliance with the requirements of the land legislation in the process of concluding civil contracts, transferring to the property, leasing, including the lease, foreclosure of land plots; observance by the state authorities, local self-government bodies, legal and natural persons of the requirements of the land legislation and the established procedure for acquisition and realization of the right to land; observance of the terms of timely return of the temporarily occupied land plots and obligatory implementation of measures for bringing them into a condition suitable for the intended purpose; adherence to the procedure for determining and compensating losses of agricultural and forestry production, etc [10].

But practice shows that state control is not always effective in this direction. Tens, hundreds of hectares and hundreds of thousands of hectares of reserve land are either not used effectively or are in shady circulation at the state level.

Priority objects for state control are the lands of the reserve, reserve fund, which have not been leased out or used, land that has not been auctioned, state-owned land leased. Between January 27 and January 31, 2020, the Land Use and Protection Control Offices operating within the Main Directorates of the State Geocadastre in the oblasts carried out 436 measures of state control on the use and protection of land, which resulted in the identification of 358 violations of the land legislation [11].

State supervision measures were also taken to comply with the requirements of the legislation in the field of land use and protection by economic entities. During

the specified period the damage caused as a result of unauthorized occupation of land plots, use of land plots not for the intended purpose, removal of soil cover without special permission for the amount of UAH 474 732 was accrued. Among them, there was voluntarily 286 853 UAH.

Detecting violations in more than every other case is a consequence of the actual lack of control over land use in recent years. But within a particular local community, with a balanced synergy of MPs and active public control, such things become practically impossible in a small, transparent area. Bringing the status of actual land use to the officially declared result will increase the revenues of the budgets of the united territorial communities in the part of the land component, and at the national level will have a positive impact on the preservation of soil productivity.

Conclusions of the research and prospects for further studies. As of January 10, 2020, 1029 rural, settlment and urban communities were formed in Ukraine, bringing together more than 4,698 councils, an area of more than 246,800 kmI, and more than 11,7 million inhabitants. The issue of the transfer of land management powers to the field remains an alternative today. This is necessary not only in view of the national course on decentralization, but also in the formation of a transparent architecture of land relations. In Ukraine, during the independence, different forms of distribution of powers in the field of land relations were implemented – both through the State Agency of Land Resources and from the district state administrations, but all of them were either ineffective or had significant corruption risks.

The reform of the territorial organization of power in Ukraine remains an extremely important task. The adoption of a qualitatively new, comprehensive and up-to-date legislative act that will regulate the process of managing land resources of the united territorial communities will allow to simplify the relevant administrative procedures and minimize the number of potential conflicts in the process of territorial management and development of territorial communities.

When defining the content of the management of land bodies of local self-government on a strategic perspective, it should be emphasized that land transformation at the local level should be carried out together with the necessary economic justification. This can be ensured through the development of project planning documentation and the provision of necessary consultations, services, including to state-owned enterprises at the expense of the state budget, the city budget, as well as at the expense of citizens and legal entities.

The main objective of state policy in the field of land management should be to reform and regulate land relations at the basic level, as an integral part of state socio-economic policy, and to provide conditions for efficient land use by territorial communities, development of the land market as one of the key conditions of sustainable economic development of regions and country [12].

Further successful implementation of the decentralization of power in terms of strengthening the role of local self-government bodies, united territorial communities

in the area of land resource management requires further work on improving the legal support of the reform. In our opinion, the legislator should eventually develop and adopt a package of laws that regulates the disposition of land resources of united territorial communities by the same local councils, which will enable the latter to realize the principle of local self-governance by resolving the legal fate of land resources within the administrative boundaries, carry out spatial and strategic planning for territorial development and attract investments.

Consequently, decentralization reform is simply not possible without land relations reform. The main prerequisite for land reform should be the elimination of the state monopoly on ownership of land settlements, the development of the land market, expanding the competence of local self-government bodies to regulate land relations [13].

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МІСЦЕ ОРГАНІВ ПУБЛІЧНОЇ ВЛАДИ В СИСТЕМІ УПРАВЛІННЯ ЗЕМЕЛЬНИМИ РЕСУРСАМИ В УМОВАХ ДЕЦЕНТРАЛІЗАЦІЇ

Постановка проблеми. Стаття стосується системи управління земельними ресурсами в Україні, де визначено місце органів публічної влади, прописано їх повноваження та закладено значну кількість правових колізій у менеджменті земельних ресурсів територіальними громадами, особливо, що стосується нових об'єднаних територіальних громад. Це проблеми обмежень "земельної" юрисдикції місцевих рад у сфері управління земельними ресурсами в межах їх територій щодо такої групи, як землі запасу, землі резерву тощо.

Своєю чергою, земельні відносини – це суспільні відносини щодо володіння, користування і розпорядження землею. Особливими суб'єктами земельних правовідносин є територіальні громади і держава через відповідні органи-інститути публічної влади.

При цьому ці два суб'єкти публічної влади наділені непропорційним обсягом повноважень щодо володіння, користування та розпорядження земельними ресурсами.

Аналіз останніх досліджень і публікацій. Коротко розглядається дослідження питань управління земельними ресурсами в процесі децентралізації влади в Україні такими авторами, як: О. Проніна, О. Костишин, О. Дорош, А. Мартин, А. Третьяк та інші. Незважаючи на значну кількість публікацій, місце органів публічної влади в системі управління земельними ресурсами в умовах децентралізації вітчизняною наукою не достатньо досліджене.

Виокремлення невирішених раніше частин загальної проблеми. Згідно з назвою, у статті розглядається розширення повноважень органів місцевого самоврядування в системі управління земельними ресурсами у межах територіальної громади. Особлива увага приділяється управлінню землями запасу та резерву, землями, що раніше належали Міністерству оборони.

Згадується, що в момент найвищої соціальної напруги в державі, яка зародилася на підґрунті деяких проектів законодавчих актів України щодо ринку землі та стимулювання, створення й діяльності дрібних фермерських господарств і деконцентрації повноважень у сфері земельних відносин, головним лейтмотивом є те, що жодного із зареєстрованих у Верховній Раді України законопроектів про передачу земель територіальним громадам не ухвалено.

Виклад основного матеріалу. Розвиток України, суспільства, окремо взятої територіальної громади визначається багатьма чинниками економічного, політичного та соціального спрямування. Проте однозначно можна стверджувати, що необхідною передумовою соціально-економічного відродження сільських територій України є сталий розвиток системи місцевого самоврядування та активне залучення кожного члена сільської громади до вирішення питань загальнодержавного і місцевого значення. За часи незалежності в Україні нагромаджено певний вітчизняний досвід формування й розвитку механізму управління земельними ресурсами. Водночас ведеться активний пошук механізму вдосконалення, зокрема із застосуванням зарубіжного досвіду, де управління земельними ресурсами має давню історію і великий арсенал механізмів його регулювання.

У зарубіжних країнах земельне право як окрема галузь не визначається, нормативні положення у них окреслюють окремі види земельних відносин, до яких належить земельна оренда, земельний оборот тощо, а ще законами про аграрні й земельні реформи. При цьому, в конституціях зарубіжних країн відображені основні засади управління земельними ресурсами. Передусім матеріальні і фінансові ресурси, які отримує та якими розпоряджається територіальна громада, і які в основі формують матеріальну і фінансову базу місцевого самоврядування, чим визначаються реалії місцевого самоврядування. Загалом, оцінюючи фактичний стан інституту місцевого самоврядування, можна зробити висновок, що в умовах адміністративно-територіальної реформи в Україні не можна вважати, що процес формування інституту місцевого самоврядування вже відбувся, а форми і засоби захисту прав і гарантій мешканців вичерпано. Так, управління земельними ресурсами громад набуває нової якості і змісту в умовах децентралізації влади, що зазначається у національному законодавстві щодо добровільного об'єднання територіальних громад.

Відповідними органами державної влади Земельний кодекс України визначає: Кабінет Міністрів України, Раду Міністрів АРК, місцеві державні адміністрації – районні і обласні, Київську та Севастопольську міські державні, державні органи приватизації, повноваження яких прописані в ст. 122 Земельного кодексу України.

Зокрема, Держгеокадастр здійснює державний контроль за: дотриманням вимог земельного законодавства в процесі укладання цивільно-правових договорів, передачі у власність, надання в користування, зокрема в оренду, вилучення (викупу) земельних ділянок; дотриманням органами державної влади, органами місцевого самоврядування, юридичними та фізичними особами вимог земельного законодавства та встановленого порядку набуття і реалізації права на землю; додержанням строків своєчасного повернення тимчасово зайнятих земельних ділянок тощо.

Пріоритетними об'єктами для проведення державного контролю визначено землі запасу, резервного фонду, які не надані у власність чи користування, землі, які не винесені на земельні аукціони, землі державної власності, надані в оренду. Тільки у 2018 р. було нараховано 14,65 млн грн відшкодування за самовільне зайняття земельних ділянок, нецільове використання земель та зняття родючого шару ґрунту. Все це засвідчує, що держава – неефективний власник.

Встановлення порушень у більше ніж кожному другому випадку – це наслідок фактичної відсутності контролю за використанням землі протягом лише останніх років. Приведення статусу фактичного використання земель до офіційно заявленого у підсумку сприятиме збільшенню доходів бюджетів об'єднаних територіальних громад у частині

земельної складової, а на національному рівні позитивно позначиться на збереженні продуктивності ґрунтів.

Висновки і перспективи подальших розвідок. Результати реформи децентралізації у 2015 – 2019 рр. щодо перспектив на 2020 р. дають підстави стверджувати, що реформа відбувається не так успішно, як це декларують офіційні органи.

Наслідком багаторічної "консервації" правил гри на сучасному правовому полі земельних відносин є вкрай обмежені позитивні суспільні зрушення в цьому напрямку, низький рівень розвитку територій.

Питання передачі повноважень із розпорядження землями на місця на сьогодні залишається безальтернативним. Це необхідно не лише з огляду на загальнонаціональний курс на децентралізацію, але і для формування прозорої архітектури земельних відносин.

Реформа територіальної організації влади в Україні залишається стратегічним державним завданням. Прийняття якісно нового, комплексного та сучасного законодавчого акту, що регулюватиме процес управління земельними ресурсами об'єднаними територіальними громадами, дозволить спростити відповідні адміністративні процедури та мінімізувати кількість потенційних конфліктів у процесі управління територіями, а також вибудувати на місцях центри прийняття ефективних рішень.

Ключові слова: земельні ресурси; органи державної влади; органи місцевого самоврядування; органи виконавчої влади; територіальні громади; управління; децентралізація.

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