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## ENVIRONMENTAL RESTRICTIONS ON THE EXERCISE OF LAND RIGHTS: EUROPEAN EXPERIENCE

**Galyna Moroz, Ihor Myronenko, Oleh Vivcharenko, Nadiia Kobetska***Vasyl Stefanyk Precarpathian National University, Ivano-Frankivsk, Ukraine.*

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### ABSTRACT

The current land reforms in Ukraine are aimed at supporting the rational use and protection of land protection. At the same time, as a result of difficult social, political and economic conditions, the processes of exercising rights to land resources have become more complicated. Ploughed land reaches 57% of the total territory, which is the highest rate in the world. The purpose of the study is to determine the essence of environmental restrictions on the exercise of land rights in the context of new land relations based on the experience of European countries, as well as to reveal the conceptual foundations of land use at the present stage of legislative and regulatory issues. Modern processes do not meet the requirements of rational use of natural resources, violating acceptable ratios. Problems with the balance of nutrients in agriculture and violation of environmentally acceptable areas of the environment have become more acute. Rules on environmental restrictions are established on the territory of the state to resolve issues of land use and protection. Their compliance is a prerequisite for all executive authorities in the field of environmental restrictions, as well as for all individuals and legal entities that are users or owners of land resources. The practical significance lies in the justification of methods and tools for rationing restrictions on the protection of land resources, land management programs, as well as the use of recommendations and materials by state employees of land, environmental and executive bodies.

*Corresponding Author: Galyna Moroz**Email: moroz7297@nanyang-uni.com**© The Author(s) 2021.*

### INTRODUCTION

Land resources are the material, energy and spatial basis of an effective standard of living. They are an important factor in production in agriculture, forestry and other major sectors of the economy. Their use in the entire complex chain is always associated with a load on the environment, as it tends to grow steadily. Extraction and subsequent processing of raw materials are often energy-intensive, associated with significant interference with the natural and water balance, which leads to the release of pollutants (Kurata *et al.*, 2018; Korolchuk, 2021). To get new production space, in some

cases, entire ecosystems are destroyed. Infrastructure for accommodation and various activities is often material-intensive and leads to the compaction of the land, which directly affects the landscape. The use of land resources already in some cases exceeds the renewable capacity of the land. Because natural resources are available only to a limited extent and often not of high quality. The growth of the world's population and the associated with-it increasing pressure on natural sources constantly lead to competition in their use (Vivcharenko *et al.*, 2019). In addition to the environmental consequences, the use of such stocks has

a wide range of social negative consequences. Because it has to do with the distribution of raw materials, safe access to freshwater, or food security for people around the world.

Currently, the per capita consumption of raw materials is estimated to be four times higher in industrialized European countries than in less developed ones. Methodological principles include the definition, concept, and interpretation of indicators used in environmental and land statistics. According to the current volume of statistical research, these methodological principles cover the following thematic groups: use and protection of land and soil resources, water resources, water pollution and protection, air pollution and protection, energy environment, economic aspects of environmental protection and resource management. These principles are developed using mandatory regulations in the field of land legislation and environmental statistics, which have a single systematically updated set of information about the land and its owners for the country. The data contained in this register is one of the elements of the national information system on the territory. The land register includes information about the location of land, borders, area, types of land, their classes of soil science and the owner (Gabbay, 2019). Status information is required for spatial planning, taxation, and insurance purposes. The right to protect land resources can also be directed to specific material flows, the regulation of which takes into account the entire life cycle of environmental restrictions (Scott, 2020; Miller, 2010).

In international European land policy, the distribution of rights of use is a prerequisite for many controversial debates. They serve as an example for policy areas related to climate and diversity policies. The question of the extent to which this topic is allowed to be discussed in countries makes it possible to talk about the responsibility that follows from this. Fair rules for the use of land resources require tougher rights about claims for private use. The search for a generalized principle of granting rights to use land sources should correspond to the different nature of the features of the socio-economic context. In addition, transnational capital requires not only state but also auxiliary levels of focus on potential issues and problems. Reducing consumption and improving land productivity are important components of current sustainable development policies at the national, European and

international levels. Due to the high complexity of their use and the traditional structure of environmental legislation, until now there were only initial approaches to protection. Legal regulation cannot be limited only to industry legislation but should cover a large number of other industries (Allen *et al.*, 2018; Kurata *et al.*, 2018). The purpose of the study is to determine the essence of environmental restrictions on the exercise of land rights in the context of new land relations based on the experience of European countries, as well as to reveal the conceptual foundations of land use at the present stage of legislative and regulatory issues.

#### **METHODOLOGY**

The theoretical and methodological basis of the research consists of the following methods: land and resource, natural and geographical, structural and planning. The land and resource approach has defined the main prospects for rational land use. It is a tool for the development and implementation of land policies that are consistent with the regional management interests of natural protection and nature management. Through it, a cycle of regulation of land resources protection activities was identified, in the process of which measures were taken to determine the boundaries of land protection and warn authorized bodies about possible consequences of implementing and developing the plan. This methodology is aimed at the adoption and practical implementation of prerequisites for solving land issues, organizing an optimal environmental function at the local, regional, economic, and national levels. It helped to characterize certain forms of management and ownership, applying a wide range of territorial and organizational measures to rationalize land use based on the formation of welfare. The scientific solution of forecasts of socio-economic development, changes in climatic and natural conditions for the nearest long-term period, changes in anthropogenic and man-made load was determined.

The natural and geographical paradigm provided for the characteristic set of resources of a certain land territory, which was determined by the settlement of the population, ecological living conditions, and means of biological productivity. The protection of land and resource potential in this aspect has led to a complex of factors that are implemented at the national level and prevent negative natural and environmental phenomena. Environmental restrictions, under the

slogan of this approach, are considered as an integral system of economic, technological and landscape functions to cover a particular area to restore fertility and protect against decay and pollution. Research on the rational and environmentally safe use and protection of land resources covers a significant part of the identified problem and reveals the role of land resources in the structure of natural reproduction of national wealth and the efficiency of land use in general. By this definition, an important condition is the restoration of the land and resource potential of a particular territory and the identification of directions for optimizing their consumption.

The structural and planning approach provided for modelling the potential of land resources in the general form of a market type. A component of independent variables has been proposed that to some extent relate to the state of the earth's environment, causing changes in the ecological system. Impact assessment is an integral part of the planning methodology and is formed simultaneously with social, political, economic and technical processes. According to the approach, the concept of potential determines the possibilities of land consumption, considering this phenomenon as actions of the future that form the principle of complexity. The complexity made it possible to analyse the qualitative, specific and quantitative composition of the model of natural resources in a certain territory. Since the unique status of land resources predetermined the need for a long-term policy of ensuring a productive environment for the protection of all available land resources within its borders, involved in the processes of social production to grow and improve economic activity and the quality of the population. The current land legislation, codes, planning and program materials of state and local government bodies in the field of land protection was also used as an information basis.

## RESULTS AND DISCUSSION

The guarantee of human life is proper care for the cleanliness of the environment and land resources, which ensures environmental protection, guided by the principle of sustainable development. This principle defines the function of the state, and therefore the main directions and goals of its activities, the purpose of which is the full protection of human rights, including the protection of all surrounding sources and resources. It plays first of all the role of a directive on the

interpretation of doubts about the scope of responsibilities, the type and method of their implementation. Therefore, it can be identified with the principle of social coexistence or socio-economic fate in the legal aspect. This principle should be taken into account by the authorities and applied in industry laws. This is because the actual state of affairs requires consideration and adoption of more favourable decisions using the principle of sustainable development, which include concern for social and civilizational development associated with the need to build appropriate infrastructure. In this case, these issues are evaluated in terms of their preferences by the body competent to make an environmental decision, as important for the way a particular case is considered. Financial and legal measures to protect the exercise of rights to land resources include, among other things, certain fees for their use, as well as administrative fines for certain non-compliance with the conditions. The state of the environment depends on how a person constantly functions in it, while the existence of a person depends on its cleanness. This type of dependency is universal. Regardless of whether a person shows common sense in caring for nature, or tolerates it only as a result of sanctions for violating orders and prohibitions. Therefore, it is safe to say that the fate of the environment, and therefore of humans and all living beings, depends on the accuracy of legal decisions and consistent control over their implementation within the framework of statutory powers exercised by public administration bodies. It would not be an exaggeration to say that the environment occupies a prominent place in the legislation of Ukraine, which is because the regulations of liability apply to all citizens. It is important to make every effort to the spatial state of the environment and thereby prove the dignity of its use. We must be aware that it also has its laws, which should not be violated, not only from a formal but also from a moral point of view. The act defining the principles of environmental protection and conditions for the use of its resources, taking into account the requirements of sustainable development, confirms the fact that a person is an integral part of it (Terrapon-Pfaff *et al.*, 2018).

The modern system based on the use of chemical fertilizers, pesticides and fossil fuels leads to soil impoverishment and a reduction in biodiversity, which negatively affects the state of the natural environment and climate. This model of production accompanies the

dominant approach to land management and entails the issues under discussion. After all, the current form of land management provides for constant universal access to cheap energy and food, and production forgets about the high economic, social and environmental costs associated with them. Factors such as the economic and financial crisis or the gradual dismantling of European social security systems have weakened the security and safety of the sector, relying on social foresight systems to ensure a decent standard of living. However, their advantage is a strong combination of generally recognised natural and technical knowledge, which allows them to fully function and be interdependent between the most important land resources (Gorban *et al.*, 2021). This has long raised the question of how to improve land and natural resource management strategies based on restrictions and laws. The concept of environmental restrictions has, first of all, a specific field of activity aimed at caring for land values or tasks that consist in caring for them. Nature protection has its interdisciplinary dimension, which contributes to the ambiguous definition of this area of activity, as it is perceived from different points of view and perspectives of research. Based on the legislation on land and nature protection, a modern protected legal environment has developed. It is also one of the material components of the structure, which follows directly from industry formulations (Myronenko, 2018). Considerations related to this term determine natural elements, including those transformed as a result of human activity, in particular the Earth's surface or other elements of biological diversity and the interaction between these parts. They make up the material substrate of the ecological component as it is by nature. Designations of land resources that have arisen as a result of natural processes are prerequisites for legal restrictions on the freedom of economic activity. Since nature is an important element of the environment, its protection is focused on the comprehensive protection of a single integrated system with specific components of global and transboundary significance that are protected. The provisions concerning restrictions on the exercise of rights to land resources form a specific social attitude, since the environment, including land, needs constant protection and preservation. This conclusion is a consequence not only of the wording of the headings of the main regulations devoted to it but also of legal definitions that deter from actions and allow preserving

or restoring the natural balance by shaping the environment and managing environmental resources following the principle of sustainable development. The understanding of the protection of the state's land resources is reflected in the provisions on environmental protection aimed at achieving complex goals, in particular: preventing pollution, managing resources and restoring the environment to proper condition. The reference point in performing all the above-mentioned tasks is to preserve the state of natural balance, which is understood in the interaction of man with the components of living nature and systems of living conditions created by elements of inanimate nature. The public task of the state and individual bodies is an algorithm of actions aimed at implementing land justice in the field of preventing environmental pollution from the point of view of the standards of legal understanding reflected in the constitutional regulation of the country and the obligations of individuals or legal entities associated with these values (Paskhalidis *et al.*, 2018; Epstein, 2007). The ambiguous nature of the exercise of rights to land capacity is presented in legal and physical languages due to the need to establish the spatial scope of obligations relating to the surface of the land. It is difficult to determine this from the current norms given since the boundaries of the spatial length of a particular land plot and the amount of responsibility related to specially defined basic facts run in parallel. The concept of the legal protection of land is defined by complex generally accepted legal provisions imposed on individuals, state authorities, units of the socialized economy, the prohibition of the needs of which leads to deterioration of the soil condition or its destruction. It is necessary to adhere to legal actions to prevent such deterioration and destruction of soils to set tasks and measures to restore the fertility of damaged layers by rehabilitating them. The subjective approach, regardless of the nature of the property right, forms the legislative context by preventing the reduction of the area, protecting the land as a whole and ensuring soil reclamation. These assumptions are related to the protection of the land surface, in which the purpose of protection cooperates with the process of protection of complex environmental, agricultural and geological resources.

The tasks of environmental restrictions included in the field of rational land management are the forming foundations for managing territories degraded as a

result of human activities or possible natural disasters and mass land movements. Registers containing such information should be included in the list of documents that, according to the current industry legislation, are subject to disclosure in terms of information about the environment and its protection. In the absence of a local spatial development plan for determining methods of land and resource improvement, the development process takes place, which is determined by making decisions on public investments, as well as the method of land development and development conditions. The included spatial policy assumptions define local zoning policies. Responsibility and preparation exist regardless of whether the state authorities intend to decide on local spatial development (Moroz, 2018). It is necessary to take into account the conditions and directions of the process of preventing and avoiding mass land consequences, including the state of agricultural and forest space, as well as requirements for the protection of the environment, nature, and cultural landscape, depending on the needs of land development (Khoroshkov and Derevianko, 2021). Economic factors occupy a special place among the exercise of rights to land resources. Problems, threats and barriers are increasingly common in this aspect. These tools provide software protection of the environment, and its integral components cease to be an external or side effect, but, on the contrary, form an important part of economic activity. In the field of natural land protection, in legal terms, the most important thing is to include fees for the use of agricultural and forest land for other purposes and fees for regulated mining or geological activities, which are the basis of financial and legal instruments. Decisions and restrictions adopted under the legislation are complex and inconsistent, the reason for which is the search in the distribution of the system of environmental protection standards related to the protection of the land surface since the provisions concerning the protection of land resources are reflected in legal acts of various spheres of public life. Spatial planning and development tools are among the main preventive actions for high-quality protection of specific areas. Comprehensive training takes into account the architectural, landscape and economic values of the space, the needs of state defence and security, as well as public interests and law in general (Sorrentino and Henke, 2018).

In Europe, there are real and urgent problems with environmental restrictions on the exercise of land rights. Different economic, social and political conditions in individual countries lead to alarming trends. Land resources have not only economic value, but also social, cultural and environmental value, so guided by such concepts, they should be based not only on technical problems but also take into account basic human rights. The opinion presented above implies a very narrow understanding of land-related issues and pushes the verge of a more comprehensive approach to the issue. The depletion of raw materials from non-renewable sources and the increased cost of obtaining them is currently a problem in the context of economic development and environmental protection. Therefore, the inevitable transition from a sustainable development strategy to a circular economy can be made possible by proper land management. Having such a priority will make them competitive and provide them with strong positions in the labour market. The main goal of such management is to reproduce an example of optimal land management on technical issues, a strong system of laws and well-functioning land management institutions. Discussions on environmental restrictions on the exercise of land rights should cover both the provisions of the directive and those contained in domestic acts because of the significant importance of the structures adopted. The European Union directive aims to fully implement the "polluter pays" principle, so it is assumed that the economic space of causing environmental damage should be directly financially responsible. The intended effect of the new rules is to achieve measures and develop practices to mitigate the consequences of the risk of damage to land resources and nature in general. This method defines the concept of resource protection by negative changes in natural sources or measurable deterioration in the utility of natural resources, which can manifest itself directly or indirectly. The provisions require the authorities to take responsibility for implementing appropriate preventive measures. The competent authority requires the institution of securing claims for the prevention and restoration of land or environmental damage while ensuring the actual implementation of the general principle (Korolchuk, 2021). The main premise of the act introduces several new definitions, including the definition of the threat of environmental damage,

corrective and preventive actions, reproducing functions on a certain plot of land (Willer and Lernoud, 2019).

Thanks to the use of natural protection and land security systems in many European countries, it has long been possible to mitigate the consequences of the irretrievable loss of natural sources. However, part of Europe's population still depends on direct access to land, which provides the right conditions for an optimal existence. These processes are discriminated against by policies and mechanisms applied at the national level. Marginalization and discrimination are the consequences of the lack of a state property support system for large-scale industrial agriculture in Ukraine and Bulgaria. Supporting huge investments in the land of Spain, Romania, Serbia or Hungary is destroying small-scale agriculture in Austria. The liberalization and deregulation of the land market in France and Germany promotes land use for non-agricultural activities (Sosiedko and Palmieri, 2021). Therefore, the correct use of the environmental structure serves as the basis for reforming the management of access rights to land resources. The main issue is the gradual transition of agricultural land to non-agricultural use. Often the result of this process is an irreversible loss of Earth's functions. It should be emphasised that the above trends are the result of policies and many decisions at the national level. Land rights relate to the legal sphere of certain categories of these actors, such as entrepreneurs, i.e., their rights and obligations related to the use of sources as well as the legal possibility of restricting their rights and freedoms by creating a legal basis for a specific approach to these elements. The relation of the legal norms of constitutional legislation consists in the desired interaction of the state and its bodies, giving preference to social and civil contact. Guided by the principle of sustainable development, land potential should be protected, and state regulatory authorities should take care of its condition and be responsible for possible deterioration caused.

Environmental protection rules are fundamental social tasks that are universal for all legal entities and individuals. However, the principle of proportionality is most important, since it points out specific legal provisions and the importance of environmental restrictions that justify the introduction of a constitutional framework for rights and freedoms in this area. Restrictions can only be imposed when it is necessary in a democratic state for its security, public

order, environmental protection or land protection, but they should not violate the essence of proper rights.

The public interest is the material justification and restriction of economic freedom, while at the same time becoming a kind of connection with values that justify the restriction of constitutional rights and freedoms. This interest is an additional important interpretation from the point of view of the needs listed by the legislation, the terms of which express the need for safety, order, and environmental protection. The main prerequisites justifying the imposition of restrictions in the field of land resources relate to the protection of these constitutional and statutory provisions to the conclusion that natural protection is one of the main values that justify restrictions for the exercise of land capacity rights. These restrictions should be reflected in a legal act of statutory rank, which follows from the content of industry concepts. The limits in the scope of doing business will be reflected in acts, the subject of which is the protection of certain land resources and natural components. This phenomenon creates a universal category with a broad meaning, which is expressed in a public task that must be implemented through various legal instruments formed in specific regulations and substantiates the use of restrictions on the exercise of freedom of land business. Therefore, this premise forms the function of a corrector, which, falling within the framework of a specific implementation of actions, partially transforms excessive interference with resources or their components (Stoops, 2021; Rembold *et al.*, 2013). The implementation of environmental restrictions on the exercise of land rights requires specific actions on the part of all environmental law standards. Undoubtedly, entrepreneurs are among the main users of land and the environment, creating prerequisites for the introduction of restrictions on the exercise of rights and provisions of the constitution, making a specific assessment of public interests over private ones. The obligation to protect the environment, including nature, is formed by legal entities as a significant value of the environment, which cannot be restricted for this use. Therefore, the obligation to protect the environment, counteract its pollution, manage its resources and restore the transformed natural land elements in proper condition creates general concepts for certain categories of business entities specified in the statutory provisions. The reproduction of this goal substantiates the functioning of

the legal system of environmental protection, an element of which is the law on nature protection, which forms legal instruments aimed at preserving the system of permits for the extraction of natural land resources and their main components (Pankratova, 2021). The provisions on the protection of the land surface in domestic law have been substantially supplemented and modified with the entry into force of the system of environmental regulations on liability and prevention of environmental damage.

To achieve the goals set in terms of environmental restrictions in the field of land source protection, it is important to use an appropriate set of legal tools based on the analysis of regulations and views. The main method of grouping legal mechanisms is divided into preventive and repressive functional means. The most important of them have preventive measures, since they, in a certain way, interact with the land theme, protecting and preventing its degradation. For such species, a local spatial plan for the development and management of degraded land plots is used, as well as regulatory measures are introduced that limit the availability of land-use changes and allow them to be excluded. These are a kind of various types of sanctions directed against criminal, administrative and civil liability in the form of institutions to carry out penalties for violating the established land norms, which are referred to in industry regulations (Parry *et al.*, 2019). The application of liability for violations of certain norms is a complex mechanism and tool of a legal nature, used to improve the user value of other lands intended for protection and improve the quality of resources.

The existing situation indicates an urgent need to reform the current structure of land management and natural resources. Tools that can help identify problems related to the protection of land rights and provide advice on improving governance play a leading role in the process of creating basic principles that have a special moral and legal obligation to implement them both at the national and international levels. They serve as a benchmark for providing practical guidance to the government on improving land management. This process also provides a partial opportunity for representatives of social movements and organizations to form the content of relevant documents. The final version of the guidelines must be agreed upon by the state authorities, and therefore it should be understood as the fruit of consensus. The guidelines should be based on human

rights, especially on economic, cultural and social issues of land management, and should be rooted in the international system of protection and natural protection, regarding the rules for implementing new industry recommendations. The content of the guidelines indicates the right of access to land resources not only as a commercial issue but also as the relationship of the population to land, including buildings and other infrastructure (Korobko, 2021; Nachtergaele and Petri, 2018; Linhart and Grant, 1996). Land potential remains the most promising in modern conditions, which is affected by the amount of use of agricultural land, insufficient funding, investment and imperfect legal land relations, which lead to inefficient use of land sources. Some specific sites should always remain in their natural state to ensure ecological balance in the environment. Economic factors of production should optimally and efficiently take into account the appropriate resource for proportional use. Further degradation of land resources protection can lead to irreversible and catastrophic consequences of the country's decline, so it is important to ensure productive land use by maintaining the possibility of increasing soil fertility.

## CONCLUSIONS

Thus, land resources are an important basis for social life. The state of their consumption at the moment confirms the grounds that this industry area is one of the leading. Efficient consumption of land resources should be directed in the following areas: search for sources of financing for this sector for technical and technological renewal, study and use the experience of advanced European countries of the world, and increase economic efficiency. In the context of environmental restrictions, the relevant legislation should contribute to improvement to prevent the introduction of hazardous substances into the soil and preserve their functions. To this end, it is necessary to identify activities that are of great importance for the field under study and can cause their contamination. This list should form the basis for identifying resources in this regard, where information will be reflected in special documents, national registers or inventories. According to current laws, responsibility for reducing or limiting risks to human health and the environment should be introduced by a specific mechanism that guarantees the existence of financial resources for the restoration of such sites.

Environmental land resources provide for a certain number of restrictions established by the relevant law or act. The programme of their creation serves as the basis for drawing restrictions on the use of land plots or resources on the cadastral map. Restrictions are subject to state registration and are valid for a certain period, indicated in land management schemes. In the future, the created ecological network, which includes land that does not belong to the nature reserve fund, which can be considered as land for other purposes, should be of great importance for the implementation of environmental tasks and restrictions. It is worth noting that at present, the provisions of the legislation on the ecological network are barely funded and not implemented, despite the extremely large potential for the protection of natural complexes, land resources and environmental systems of the country.

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