

LEGAL SUPPORT TO THE PROTECTION OF LAND AND SOIL IN LIGHT OF NEW REGULATIONS OF UKRAINE

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ABSTRACT

In this article, regulations on land and soil protection are studied in a chronological sequence and in the historical and legal contexts. The main factors responsible for the deterioration of the quality of land resources and the soil environment are identified. The modern regulatory framework providing legal support to land and soil protection is analyzed. Among the current problems is the improper land-use triggered by inadequate legal regulation concerning pollution, depletion, degradation, and reduced fertility of soil. Appropriate legal protection to the ecological functions of the soil is absent. Further legal framework addressing rational use and protection of land resources (including soil) in Ukraine should be developed integrating environmental interests of society and ecological tenets of sustainable development.

Keywords: Legal protection of land; Soil fertility; Legal protection of soils; Land degradation; Soil erosion

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1. INTRODUCTION

The total geographical area of Ukraine is 60,362,800 hectares. Of course, the lands of Ukraine, occupying such vast areas, are not homogeneous throughout the country. These lands have different functional purposes and varying legal regimes depending on the category of land they belong to.

The Constitution of Ukraine¹ recognizes land as the main national wealth, which is under special protection of the State. This legal framework indicates that the lands of Ukraine are the national treasure of the Ukrainian people. In lieu of using the land, the interests of society (public interests) are of paramount importance: they are ensured by establishing specific rules and guidelines for the rational and efficient land-use, and by establishing and regulating the norms for land protection. This primarily applies to agricultural lands meant for agricultural land-use, since it forms the basis for environmental and food security of the country. Therefore, legal support given to the protection of agricultural lands is extremely important for the society.

At the same time, the Law of Ukraine of 2019, No. 2697-VIII² “On the Basic Principles (Strategy) of the State Environmental Policy of Ukraine until 2030” pinpoints the inconsistency in the modern land-use conforming the rational nature management, and notes that the state of the land resources of Ukraine is close to critical. Thus, according to the State Institution “Derzhgruntokhorona”,³ in recent decades the quality of the land and soils has deteriorated significantly: huge areas are littered with municipal solid waste, contaminated with harmful chemicals. The degree of technogenic soil pollution has reached critical levels (radioactive pollution is spread over 461,700 hectares of agricultural land). Excessive plowing of soils (54% of the total area of the country) also has a negative effect on soil fertility, as the soil erosion is spreading rapidly causing the increase in area of disturbed lands. The erodibility of agricultural land is 40%, which means 15.9 million hectares of land, including 12.9 million hectares of arable land. While in some regions the degree of erodibility is catastrophically increasing, the nutrient content of the soil is constantly decreasing, and the annual losses of humus are 0.65 tons per hectare. The physical soil degradation has become widespread, covering almost all of the arable land in Ukraine. The area of degraded and low-fertility soils among lands of agricultural use reaches almost 20 million

¹ Constitution of Ukraine (1996) <<https://zakon.rada.gov.ua/laws/show/254к/96-бп#Text>> (1996) accessed 10 July 2021.

² Law of Ukraine ‘On the Basic Principles (Strategy) of the State Environmental Policy of Ukraine for the period up to 2030’ (2019) <<https://zakon.rada.gov.ua/laws/show/2697-19#Text>> accessed 10 July 2021.

³ ‘Mezhdunarodnoye Obshchestvo | Institut Okhoroni Gruntiv Ukraïni’ (*Iogu.gov.ua*, 2021) <http://www.iogu.gov.ua/mijnarodna_diyalnist/> accessed 31 August 2021.

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hectares. Soil degradation processes progress due to the application of an insufficient quantity of mineral fertilizers.⁴

The above-described circumstances need a study on the modern legal system ensuring land protection. The purpose of this article is to study the current state of the regulation addressing land and soil protection in Ukraine. The main objectives of the article are to conduct a critical analysis of the legislation from law making perspective, to study the current legislation of Ukraine in order to identify weaknesses in the legal support provided to land and soil protection, and to recommend a proposal for its further improvement and development.

2. DEVELOPMENT OF LEGAL SUPPORT TO THE PROTECTION OF LAND AND SOILS

The scientific and theoretical basis of legal support to the protection of land should be studied in its historical context. Studying the application of organizational and legal measures, aimed at land protection in chronological order, will allow in the future to correctly choose those legal forms that will be truly effective and provide with realistic protection to the land resources of Ukraine.

The first steps encompassing land relations and land protection were taken during the Trypillian era (VI–III millennium BC) when the primitive agrarian society realized first the importance of soil fertility and its potential to produce foods. At the early stage of the formation of modern Ukraine State, agriculture was considered one of the main avenues in the development of the nation. However, from the beginning of the development of humankind and up until the beginning of the 20th century AD, agriculture has developed extensively. This involves development of new land areas into cultivable or arable land. The use of natural resources existing on land surface was inevitable; hence, the forests were destroyed, steppes were plowed to ensure larger areas for agricultural cultivation. The Tsarist (Russian) government was considered ineffective in solving problems of nature protection. Therefore, pressure on *chernozem*⁵ soils in agriculture was moderately intense: ameliorants, chemical fertilizers and other chemicals harmful to the soil were used in agriculture; irrigation and drainage of lands were not carried out; sown areas were sown mainly with

⁴ 'Periodychna Dopovid' Pro Stan Gruntiv Na Zemlyax Silskogospodarskogo Pryznachennya Ukrayiny Za Rezultatamy X Turu Agroximichnogo Obstezhennya Zemel' (Institute for the Protection of Soils of Ukraine 2020) <http://www.iogu.gov.ua/wp-content/uploads/2021/05/Періодична-довідь2020_208-crop-№№-wecompress.com_.pdf> accessed 10 July 2021.

⁵ *Chernozem* is a black-colored soil containing a high percentage of humus (4% to 16%) and high percentages of phosphoric acids, phosphorus, and ammonia. Chernozem is very fertile and can produce high agricultural yields with its high moisture storage capacity. Chernozems are also a Reference Soil Group of the World Reference Base for Soil Resources ([https://www.isric.org/explore/wrb#:~:text=The%20World%20Reference%20Base%20\(WRB,Unesco%2C%201971%2D1981\).](https://www.isric.org/explore/wrb#:~:text=The%20World%20Reference%20Base%20(WRB,Unesco%2C%201971%2D1981).))

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cereals; mostly primitive and extensive methods of agriculture management were used. It should be noted that under such conditions of agricultural development the protection of soil and of increasing soil fertility were not taken into account at all until the beginning of the 20th century. Resultantly, historical sources until then do not contain any reference of the existence of a regulatory framework supporting soil conservation and land protection.

It was 1910s when the need for scientific development and legislative consolidation concerning the rational use of land and soil cover was felt for the first time. Evidently, the land reform was initiated by Russian Prime Minister Pyotr Stolypin in 1907. The reform was aimed at optimizing rural land-use addressing, in particular, the elimination of strip farming, incorrect land allotment configurations, industrial promotion, as well as increasing the production of agricultural goods for further export.

The “Stolypin” land reform was started with the Decree of November 9, 1906 “On Supplementing Certain Provisions of the Current Law on Peasant Land Tenure and Land-Use”,⁶ which came into force upon approval of the State Duma⁷, the State Council and the Tsar on July 14, 1910. Other regulations were the Law “On Amendments to Certain Resolutions on Peasant Land Tenure” of June 14, 1910, the Law “On Land Management” of May 24, 1911, and “Provisions on Land Management” of May 29, 1911. These regulatory acts enshrined the main provisions of the reform, which consisted of:

- 1) implementation of the sale of land to peasants in private ownership through the Peasant Bank on preferential terms;
- 2) providing agro-economic assistance to peasants through implementation of progressive forms of agricultural production;
- 3) improving the farming standards in the countryside by organizing training courses; and
- 4) establishment of the institution of hereditary land tenure, etc.

It should be noted that the results of the “Stolypin” reform were characterized by a significant increase in agricultural production, an increase in the capacity of the domestic market, an increase in agricultural export, and the trade balance. As a result, it was possible not only to bring agriculture out of the crisis, but also to turn it into a dominant segment of the economic development of the country. The gross income from the agriculture in 1913 rose to 52.6% of the total gross income. The rate of profit by whole national economy, due to increased cost of agricultural products, had increased by 33.8%.⁸ All this is an indicator of economic soil fertility, which had apparently

⁶ Collection on the history of the Soviet state and government of the Ukrainian SSR (1954) 30, 31.

⁷ The State Duma is the lower house of the Federal Assembly of Russia, while the upper house is the Council of the Federation. The Duma headquarters are located in central Moscow. Its members are referred to as deputies.

⁸ Valerij Volkovynskyj and Yuriy Khoptyar, ‘Stolypins’ka agrarna reforma’ Institute of History of Ukraine, National Academy of Sciences of Ukraine
<http://www.history.org.ua/?termin=Stolypinska_reforma> accessed 11 July 2021.

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increased. At the same time, training courses, aimed at developing the farming standards, contributed to the rational land-use, and, hence, to maintaining the proper quality of land and other natural resources.

Fundamentally, new approaches to the law making around land relations were introduced in 1917 when the “The Decree on Land”⁹ was adopted. This Decree abolished private ownership of land and prohibited its sale, and declared that the land, as national property, should be given for free to the peasants for their use. An important principle of the Decree was also the provision on the division of powers between the central and local authorities. Thus, the centre and state organs decided on fundamental issues of land and land-use, and the local authorities, on the grounds of specific features and conditions of land-use, determined the procedure, form and conditions of land-use. This division of powers made it possible in the legislation of the Ukrainian SSR to take into account the peculiarities of natural conditions of land and economic activities in the republic while regulating the issues of legal protection of soil and of increasing soil fertility.

Some tenets and principles enshrined in “The Decree on Land” existed almost unchanged until 1991. In particular, this applies to the exclusive State form of land ownership, as well as on the prohibition on the sale of land. At the same time, the period from 1917 to 1991 is characterized by certain changes in the legal system of land relations. During these years, a widespread intensification and chemicalization of agriculture began to develop. This, first of all, involved intensive application of mineral fertilizers, herbicides, insecticides and pesticides. The use of such plant protection products provided a significant increase in the soil’s economic and biological fertility. However, its natural and potential fertility was significantly reduced, along with the natural resources were negatively affected, and the natural environment was polluted.

It was only in the 1960s when an attention was first paid to the worse state of the environment. During this period, a number of legal and regulatory acts were adopted, the action of which was aimed at the protection of both the environment as a whole and its individual components. First of all, we should mention the Law “On Nature Protection of the Ukrainian SSR”¹⁰, adopted on June 30, 1960 by the Supreme Soviet of the Ukrainian SSR and amended in 1964. This law regulated the relations concerning the protection and rational use of natural resources.

The principles laid down by this law were further embodied in regulations related to land protection and soil protection. In particular, they were reflected in the Resolutions of the Council of Ministers of the USSR “On

⁹ ‘The Decree on Land’ (1917) <http://www.hist.msu.ru/ER/Text/DEKRET/o_zemle.htm> accessed 22 August 2021.

¹⁰ Valerij Smolij and others, *Encyclopedia of the History of Ukraine*: Vol. 3. (National Academy of Sciences of Ukraine, 2005)
<http://www.history.org.ua/?termin=Zakon_URSR_Pro_okhoronu_pryrody_URSR_1960> accessed 11 July 2021.

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Measures to Protect Soils and Protection Forest in the Ukrainian SSR”¹¹ of September 12, 1960, and “On the Organization of Soil Erosion Control in the USSR”¹² of April 30, 1960. An important novelty of the latter Resolution was the decision to conduct a full inventory of eroded lands and anti-erosion structures. In fact, the contents of this Resolution can be considered the first attempt to establish a land cadastre in the Ukraine republic, an important component of which is information on the quality of soils.

The relevant legal requirements were further developed in the Resolution of the Council of Ministers of the Ukrainian SSR “On Urgent Measures to Protect Soils from Wind and Water Erosion in the Ukrainian SSR”¹³ of May 16, 1967. The Resolution established the directives for anti-erosion measures (terracing of slopes, building erosion control structures, creation of protection forests, afforestation of ravines, gullies, sands and other lands unsuitable for agricultural production, etc.), which were necessary to implement in derelict regions of Ukraine, taking into account the geographical and climatic features of each of them. This differentiated approach to addressing soil erosion certainly yielded positive results: first, economic indicators of soil fertility increased, and second, the erosion control led to increased resilience of natural environment at the local level.

Another direction in the arena of land protection legislation during 1960s was the regulations on administrative control over the use and protection of land. In particular, on September 19, 1962, the Resolution “On State Controllers for Soil Protection and Protection Forests on the Territory of the Ukrainian SSR”¹⁴ came into force. This regulation, for the first time, at the legislative level defined the mechanism of activities performed especially by authorized State organs and officials to verify compliance with and implementation of the soil protection legislation. There was also a fairly wide range of powers of State controllers to monitor soil protection and take measures to increase soil fertility. However, the performance of State controllers’ functions at that time was complicated by the fact that the legislation did not define the most important thing – the concept of soil fertility as an object of legal protection. And, without this, it was almost impossible to ensure the compliance by land users with the provisions of the legislation on land and soil protection.

An important feature of the soil protection legislation during the late 1960s and early 1990s was an increase in the regulation of land amelioration

¹¹ Resolution of the Council of Ministers of the USSR ‘On measures for the protection of soils and protective forest plantations on the territory of the Ukrainian SSR’ (1960) <<https://zakon.rada.gov.ua/laws/show/1541-60-n#Text>> accessed 11 July 2021.

¹² Legislation on Land (1972) <http://ek.nlu.edu.ua/cgi-bin/irbis64r_01/cgiirbis_64.exe> accessed 22 August 2021.

¹³ Resolution of the Council of Ministers of the USSR ‘On urgent measures to protect soils from wind and water erosion in the Ukrainian SSR’ (1967) <<https://zakon.rada.gov.ua/laws/show/320-67-n#Text>> accessed 11 July 2021.

¹⁴ Resolution of the Council of Ministers of the USSR ‘About the Statement of the Situation on the State Controllers on Protection of Soils and Protective Forest Plantations in the Territory of the USSR’ (1962) <<https://zakon.rada.gov.ua/laws/show/1103-62-n#Text>> accessed 11 July 2021.

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relations. In this context, an attention was traditionally paid to the protection of lands of agricultural designation, as evidenced by a number of Resolutions of the government bodies. In particular, mentioned are the Resolutions of the Council of Ministers of the USSR: 1) "On the Broad-Scale Development of Land Amelioration for High and Sustainable Yields of Grain and Other Crops in the Ukrainian SSR"¹⁵ of June 16, 1966; 2) "On Measures for the Further Development of Land Amelioration and Their Agricultural Development in 1971-1975"¹⁶ of 16 April 1971; 3) "On the Plan of Land Amelioration for 1976 – 1980 and Measures to Improve the Use of the Reclaimed Land"¹⁷ of July 15, 1976. With the enactment of these Resolutions, the area of irrigated and drained lands in the USSR has almost doubled (up to 27 million hectares). The number of such areas increased significantly in the Ukrainian SSR as well. During the implementation of the measures as envisaged by the programs of amelioration of lands of agricultural use, the goals set by the government of the former Soviet Union were achieved: artificial soil fertility increased significantly; the tasks of the Food Program¹⁸ were fulfilled; and the country's economic development was ensured.

Simultaneously, scientists of the modern land law rightly note that the general intensification of agricultural management, which became especially noticeable in the second half of the 20th century, reduced the inherent biological stability and balance of the environment in general, and land in particular.¹⁹ Tetyana Lisova also notes that an element of the ecosystem is not only agricultural land, but also all lands, regardless of their designation. Therefore, it would be extremely important in today's contexts to protect lands on the basis of an integrated approach to land as complex natural formations (ecosystems), taking into account their zonal and regional characteristics.²⁰ It is worth agreeing with such conclusions of the scientists, as the processes that took place in the agricultural field during the Soviet era led to a critical state of the soil quality, reducing their natural fertility and disturbing the ecological balance of the environment. After Ukraine getting independence, the lack of legal support to the protection of soil became particularly acute.

Some hopes for the solution of acute problems were perceived with the introduction of the land reform, which began with the adoption of the

¹⁵ Legislation on Land (1972) <http://ek.nlu.edu.ua/cgi-bin/irbis64r_01/cgiirbis_64.exe> accessed 22 August 2021.

¹⁶ *ibid.*

¹⁷ *ibid.*

¹⁸ The food program of the USSR was adopted in 1982 for the period up to 1990. The program identified the main problems in the development of agriculture, and within its framework a set of measures was proposed to overcome the crisis. The goal of the Food Program was to make the most of the country's economic potential, to ensure, as soon as possible, a reliable and sustainable supply of all types of food to the population, and to significantly improve the structure of the population's nutrition.

¹⁹ Pavlo Kulinich 'Pravovi problemy oxorony i vykorystannya zemel' sil's'kogospodars'kogo pryznachennya v Ukraini': monohrafiya (Logos 2011).

²⁰ Tatiana Lisova 'Pravove zabezpechennya vidnovlennya zemel: teoretychni i praktychni problemy': monohrafiya (Jurayt 2020).

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Resolution “On the Land Reform”²¹ by The Supreme Soviet of the Ukrainian SSR on December 18, 1990. During the years of the implementation of the land reform program and additional regulatory acts aimed at accelerating its implementation, a new system of land relations originated. Thus, different forms of land ownership emerged; equal conditions for the existence of all forms of land ownership and management were created; market land commerce was introduced, and so on. In general, we can witness positive changes in the political, economic, social spheres of society. However, the land reform, unfortunately, overlooked the important issue of legal support to the protection of soil fertility. In Ukraine, since 1991, the implementation of programs to increase soil fertility was virtually stopped. As a result, the losses of humus on the fertile lands of Ukraine have recently increased; wind and water erosion have intensified; and the soil’s economic and natural fertility has significantly decreased.

A significant event in the history of land relations was the adoption of the Land Code of Ukraine²² by The Verkhovna Rada of Ukraine on October 25, 2001. The need for legal protection of lands (Articles 162 – 172) is featured prominently in this Code. The Code reveals, in detail, the concepts, tasks, content and procedure for land protection, addresses the use of technogenically contaminated lands, promotes the conservation of degraded and marginal lands, and ensures reclamation of disturbed lands. Important provisions in the field of land protection and reproduction of soil fertility are enshrined in Article 165, which governs the regulation concerning land protection and reproduction of soil fertility. Finally, Article 168 recognizes soil as an object of special protection.

After the adoption of the current Land Code of Ukraine, an extensive system of regulations was formed. It was constantly improved, detailed and outlined to accommodate new areas addressing legal support to protection of soil and fertility. On the basis of the Land Code of Ukraine, a number of regulations at various levels and legal forces were adopted. Special programs aimed at land and soil protection were developed. The two simultaneously adopted Laws of Ukraine: “On Land Protection”²³ and “On State Control over the Use and Protection of Land”²⁴ of 19 June 2003 are of particular importance. The former law contains basic concepts ensuring legal support to protection of land and soil and establishes other related core provisions. The latter law at the legislative level provides for the divisions of powers of the government agencies offering a legal support to the protection of land and soil. The implementation of the provisions of these laws led to

²¹ Resolution of the Verkhovna Rada of Ukrainian SSR № N 563-XII ‘On land reform’ (1990) <<https://zakon.rada.gov.ua/laws/show/563-12#Text>> accessed 15 July 2021.

²² The Land Code of Ukraine (2001) <<https://zakon.rada.gov.ua/laws/show/2768-14#Text>> accessed 15 July 2021.

²³ Law of Ukraine ‘On Land Protection’ (2003) <<https://zakon.rada.gov.ua/laws/show/962-15#Text>> accessed 15 July 2021.

²⁴ Law of Ukraine ‘On State Control over the Use and Protection of Lands’ (2003) <<https://zakon.rada.gov.ua/laws/show/963-15#Text>> accessed 15 July 2021.

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the adoption of many other legal acts, in particular, the Resolution of the Cabinet of Ministers of Ukraine of May 26, 2004, No. 681 "On the Procedure for Natural and Agricultural, Ecological and Economic, Erosion-Preventive and Other Types of Zoning of Land"²⁵; the order of the Ministry of Agrarian Policy and Food of Ukraine of February 26, 2004, No. 51 "On the Regulation on Soil Monitoring on Lands of Agricultural Designation"²⁶; order of the Ministry of Agrarian Policy and Food of Ukraine of April 26, 2013, No. 283 "On the Procedure for Land Conservation"²⁷; order of the Cabinet of Ministers of Ukraine of March 30, 2016, No. 271-r "On the National Action Plan of Land Degradation and Desertification Control"²⁸, etc.

As a result, the norms that should support the protection of soil fertility are scattered in many current regulations. The lack of a single legal or regulatory document, which would encompass the provisions of the legal support to the protection of soils and their fertility, complicates or even prevents the implementation of the legal measures aimed at solving the problem of interest.

3. THE MODERN REGULATION OF AGRARIAN RELATIONS AROUND LAND AND SOIL PROTECTION IN UKRAINE

Article 162 of the Land Code of Ukraine of October 25, 2001, No. 2768-III enshrined the legislative concept of land protection, in accordance with which it is a system of legal, organizational, economic and other measures aimed at rational land-use, preventing unreasonable extraction of lands of agricultural and forestry designation, protection against harmful anthropogenic influence, reproduction and increase of soil fertility, increasing the productivity of lands of forestry designation, supporting a special regime of the use of lands of environmental, health-improving, recreational and historical and cultural designation.

Definitely, the proper legal regulation aimed at protecting land and soil is a prerequisite for the further development of society. However, such regulation should both secure economic interests and contribute to the achievement of sustained nature management and protection of natural resources, including soils. In this respect, it is relevant to refer to the scientific

²⁵ Resolution of the Cabinet of Ministers of Ukraine 'About the statement of the Order of implementation of natural-agricultural, ecological-economic, anti-erosion and other types of zoning of the earths' (2004) <<https://zakon.rada.gov.ua/laws/show/681-2004-n#Text>> accessed 15 July 2021.

²⁶ Order of the Ministry of Agrarian Policy of Ukraine 'On approval of the Regulations on soil monitoring on agricultural lands' (2004) <<https://zakon.rada.gov.ua/laws/show/z0383-04#Text>> accessed 15 July 2021.

²⁷ Order of the Ministry of Agrarian Policy and Food of Ukraine 'About the statement of the Order of conservation of the earths' (2013) <<https://zakon.rada.gov.ua/laws/show/z0810-13#Text>> accessed 15 July 2021.

²⁸ Orders of the Cabinet of Ministers of Ukraine 'On approval of the National Action Plan to combat land degradation and desertification' (2016) <<https://zakon.rada.gov.ua/laws/show/271-2016-p#Text>> accessed 15 July 2021.

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position expressed by Anatoliy Getman and Hanna Anisimova, that the basic characteristics of the ecological component of sustainable development, in accordance with the requirements of the EU, are environmental protection, supporting the environmental safety of the population and territories, reducing the anthropogenic pressure on it, mitigating climatic changes, ensuring quality of drinking water, minimizing the harmful effects of production process, bating domestic and other noises, protecting from radioactive contamination, waste management, etc.²⁹ So, the further regulations guiding rational use and protection of land resources (including soils) of Ukraine should be developed taking into account the combination of economic interests of society and environmental components of sustainable (balanced) development.

Unfortunately, the modern regulatory and legal framework does not contain a special legislative act, which would regulate the relations concerning soil protection, although the scientists at the National Academy of Agrarian Sciences of Ukraine made attempts to fix this legislative gap repeatedly. In 2013, the Draft of the Law of Ukraine "On Preservation of Soils and Protection of Their Fertility"³⁰ was developed and prepared as directed by the Ministry of Agrarian Policy and Food of Ukraine, No. 13-3/7 of April 8, 2013. This law had to determine the legal, economic, ecological and organizational bases of use and preservation of soil, protection and reproduction of its fertility, and to establish the basic principles of the state policy in this area, requirements for preserving the quality of soil cover, protecting it from negative natural and anthropogenic influences. The purpose of the Draft Law was to adopt a full-scale Act of framework type, which was to contain all necessary provisions and norms regulating legal relationships in this area.

On March 17, 2015, the Verkhovna Rada Committee on Agricultural Policy and Land Relations considered another draft law (No. 1798 of January 20, 2015). The Verkhovna Rada of Ukraine was advised to reject it on the grounds of duplication of some provisions already present in other legislative Acts. After the rejection of another draft law "On the Preservation of Soil and Protection of its Fertility" of 2017, the NAAS (National Academy of Agrarian Sciences) scientists drafted the Technical Law of Ukraine "On Amendments to Certain Legislative Acts on Mechanisms for Improving Soil Preservation and Economic Stimulation of Reproduction of its Fertility" which also had the same fate as the previous ones.

Thus, for almost a hundred years of public awareness of the need for legal support to the protection of soil and its fertility, the government authorities have not done a serious effort to solve this problem. Individual

²⁹ Anatoliy Getman A and Hanna Anisimova, 'Deyaki ekologo-pravovi aspekty zabezpechennya stalogo rozvytku Ukrainy' (2017) Law and innovation 3 (19)
<<https://openarchive.nure.ua/bitstream/document/14660/1/doc1.pdf>> accessed 16 July 2021.

³⁰ Draft Law of Ukraine 'About preservation of soils and protection of their fertility' (2013)
<<https://ips.ligazakon.net/document/NT0506>> accessed 16 July 2021.

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legal norms governing soil protection relations do exist in fragments in the form of variety of regulations. But this problem needs to be solved immediately by adopting a specialized consolidated legal instrument. Such a legal instrument can be the Law of Ukraine “On Protection of Soil and its Fertility”.

4. CONCLUSION

A critical analysis of the former and current legislation of Ukraine allows us to conclude that the historical development of legal support to the protection of land and soil can be divided into two periods: 1) Soviet period (from the mid-1940s to 1990); 2) period of independent Ukraine (from 1990 to the present). The first period of the development of legal process on this issue is characterized by an aggressive increase in artificial and economic fertility of soils through the intensification of agricultural production, excessive chemicalization of agriculture, and agricultural land amelioration. Since Ukraine became an independent state, the second period of evolution of legislation giving support to the protection of land and soil is characterized by new directions of environmental and land protection.

However, the modern domestic legislation is lacking a clear scientifically grounded concept spelling the sustainable use and protection of land. In turn, the existing imperfect regulatory and legal framework cause inefficiency in the legal apparatus regulating the use and protection of soils of Ukraine. It is obvious that the further regulation addressing rational use and protection of land resources (including soils) of Ukraine should be developed while integrating the economic interests of society and contribute to the achievement of balanced nature management and protection of natural resources, including soils.

In order to optimize the legal support to the protection of land and soil, adopting a new Law of Ukraine “On Protection of Soil and Its Fertility” would be radically important legal framework. This proposed law should define and differentiate measures aimed at protection and improvement of the quality of soil fertility; should provide norms on ensuring ecologically balanced land-use and application of ecologically safe technologies of tillage; and should determine the ways of conducting economic activity while maintaining the productivity of agricultural lands, increasing their ecological sustainability and soil fertility.

REFERENCES

- Draft Law of Ukraine ‘About Preservation of Soils and Protection of their Fertility’ (2013) <<https://ips.ligazakon.net/document/NT0506>> accessed 16 July 2021
- Smolij V and others, Encyclopedia of the History of Ukraine: Vol. 3., National Academy of Sciences of Ukraine

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- (2005) <http://www.history.org.ua/?termin=Zakon_URSR_Pro_okhronu_pryrody_URSR_1960> accessed 11 July 2021
- Getman A, and Anisimova H, 'Deyaki ekologo-pravovi aspekty zabezpechennya stalogo rozvytku Ukrayiny' (2017) Law and innovation 3 (19)
<<https://openarchive.nure.ua/bitstream/document/14660/1/doc1.pdf>> accessed 16 July 2021
- Kulinich P, 'Pravovi problemy oxorony i vykorystannya zemel' sil'skogospodars'kogo pryznachennya v Ukrayini': monohrafiya (Logos 2011)
- Lisova T, 'Pravove zabezpechennya vidnovlennya zemel': teoretychni i praktychni problemy': monohrafiya (Jurayt 2020)
- 'Periodychna Dopovid' Pro Stan Gruntiv Na Zemlyax Siskogospodarskogo Pryznachennya Ukrayiny Za Rezultatamy X Turu Agroximichnogo Obstezhennya Zemel' (Institute for the Protection of Soils of Ukraine 2020)
<http://www.iogu.gov.ua/wp-content/uploads/2021/05/Періодична-доповідь2020_208-стор-№№-wecompress.com_.pdf> accessed 10 July 2021
- Volkovynskyj V, and Khoptyar Y, 'Stolypins'ka agrarna reforma' Institute of History of Ukraine, National Academy of Sciences of Ukraine, accessed 10 July 2021

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AUTHOR' DECLARATIONS AND ESSENTIAL ETHICAL COMPLIANCES

Author' Contributions (in accordance with ICMJE criteria for authorship)

This article is 100% contributed by the sole author. She conceived and designed the research or analysis, collected the data, contributed to data analysis & interpretation, wrote the article, performed critical revision of the article/ paper, edited the article, and supervised and administered the field work.

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Research involving human bodies (Helsinki Declaration)

Has this research used human subjects for experimentation? No

Research involving animals (ARRIVE Checklist)

Has this research involved animal subjects for experimentation? No

Research involving Plants

No plant was used to conduct this research.

Research on Indigenous Peoples and/or Traditional Knowledge

Has this research involved Indigenous Peoples as participants or respondents? No

(Optional) PRISMA (Preferred Reporting Items for Systematic Reviews and Meta-Analyses)

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