

глобального ринку інтенсивних підсолоджувачів до 2015 року. Природні цукрозамінники, отримані із стевії – найшвидше зростаючий сегмент на відповідному ринку.

Україна, як колишній провідний у світі виробник цукру, має реагувати на світові тенденції; не залишатись осторонь інноваційних процесів на ринку природних цукрозамінників. За даними досліджень Інституту біоенергетичних культур і цукрових буряків НААН, Україна має сорти стевії власної селекції, технології її вирощування, перш за все в Криму, переробки і застосування в різних сферах споживання. Прийняття необхідних законодавчих регулятивних актів, захист інтелектуальної власності вітчизняних селекціонерів та технологів, розвиток виробничих потужностей шляхом залучення інвестицій в переробку стевії дозволить вітчизняним виробникам інноваційних продуктів на основі стевії посісти гідне місце на ринку цукрозамінників, захистити вітчизняний ринок від синтетичних підсолоджувачів та інших псевдоінноваційних продуктів.

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Ключові слова: інновації, інноваційний розвиток, нові продукти, натуральні підсолоджувачі, природні цукрозамінники, ринок цукрозамінників, стевія

Ключевые слова: инновации, инновационное развитие, новые продукты, натуральные подсластители, природные сахарозаменители, рынок природных сахарозаменителей, стевия

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COMPARATIVE APPROACH OF DAMAGE AND LOSS CONCEPTS THROUGH ECONOMICS AND LEGAL PERSPECTIVES

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Palekienė O., Bruneckienė J., Orekhova T. Comparative approach of damage and loss concepts through economics and legal perspectives.

In nowadays economic, political and business life the concepts “economic damage” or “economic loss” are often used. Due to recently ended economic crisis, scientists, researchers, economists attempt to estimate the financial loss and evaluate economic damage. In order to perform their quantification, there must be clearly defined limits where, when and which concept, damage or loss, should be used. Therefore in this publication the theoretical interpretation of damage and loss concepts through economic (financial) and legal perspectives are presented. Because of depending on

the situation the meaning of the used concept, it's character, place and period could be very different, so during the analysis will be determined which concept generally used in economics. The concept of "pure economic loss" and different approach on this special category of pecuniary loss in different countries are overviewed. Determination of economic compensation limits is a complex problem and in order to estimate the amount of damage even after establishment all responsibility conditions, several parameters should be combined. Timetable of economic damage quantification encompasses an extended damages period and methodological evaluation of economic damages performance (actual performance, but-for performance, present value of past and future losses) are presented in publication.

Палякене О, Брунецкене Ю., Орехова Т. Сравнительный анализ концепций ущерба и потерь с точки зрения экономических и правовых перспектив.

В настоящее время в экономической, политической и деловой сферах деятельности часто используются такие понятия как "экономический ущерб" или "экономические потери". После экономического кризиса, который охватил практически все страны, ученые, исследователи и экономисты пытаются подсчитать финансовую потерю и оценить экономический ущерб. Для выполнения и предоставления количественной оценки экономических потерь, должен быть ясно определены пределы, где, когда и какое понятие, ущерб или потеря, должно быть использовано. Поэтому в этой публикации представлена теоретическая интерпретация понятий ущерба и потеря с точки зрения экономических и правовых перспектив. В зависимости от ситуации, значение используемого понятия, его характер, место и период могут быть совершенно различными, таким образом, в результате проведенного анализа будет выявлено понятие, которое в общем используется в экономике. В публикации также представлена концепция „чисто экономических потерь“ и рассматриваются различные подходы к этой особой категории материального ущерба в разных странах. Определение пределов экономической компенсации является сложной проблемой, и даже после установления всех условий ответственности сумму ущерба оценить очень трудно, поэтому некоторые параметры должны быть объединены. Стандартный график понесения экономических потерь и методологическая оценка показателей экономических потерь (фактическое исполнение, „but-for“ исполнение, приведенная стоимость прошлых и будущих потерь) представлены в публикации.

Палякене О, Брунецкене Ю., Орехова Т. Порівняльний аналіз концепцій збитку і втрат з точки зору економічних та правових перспектив.

Нині в економічній, політичній і діловій сферах діяльності часто використовуються такі поняття як "економічний збиток" або "економічні втрати". Після економічної кризи, яка охопила практично усі країни, учені, дослідники і економісти намагаються підрахувати фінансову втрату і оцінити економічний збиток. Для виконання і надання кількісної оцінки економічних втрат, має бути ясно визначені межі, де, коли і яке поняття, збиток або втрата, має бути використане. Тому в цій публікації представлена теоретична інтерпретація поняття збитку і втрати з точки зору економічних та правових перспектив. Залежно від ситуації, значення поняття що використовується, його характер, місце і період можуть бути абсолютно різними, таким чином, в результаті проведенного аналізу буде виявлено поняття, яке загалом використовується в економіці. У публікації також представлена концепція "чисто економічних втрат" і розглядаються різні підходи до цієї особливій категорії матеріального збитку в різних країнах. Визначення меж економічної компенсації є складною проблемою, і навіть після встановлення усіх умов відповідальності суму збитку оцінити дуже важко, тому деякі параметри мають бути об'єднані. Стандартний графік понесення економічних втрат і методологічна оцінка показників економічних втрат (фактичне виконання, "but-for" виконання, приведена вартість минулих і майбутніх втрат) представлені в публікації.

The research problem. Providing a general framework for economic evaluation of damage or loss, some additional categories of damage should be distinguished, for example pecuniary damage. This category of damage will be leading in the publication, because of the reason that economic damage is often identified to the term of pecuniary damage. The main problem of this publication related to the pecuniary damage - the absence of a unified terminology. The concept of "pure economic loss" is used only in legal doctrine, while in order to describe this category of damage, especially in jurisdiction, other concepts of pecuniary damage are used (for example, direct losses). The introduction of a unified approach and name of the category, both in theory and in practice, would help to understand the damage category essence. Clarification of damage and loss concepts will be both useful and helpful, because different understanding of these concepts interferes to form unified approach of them through economic perspective. The purpose of the publication is to analyze and present the theoretical interpretation of loss and damages concepts through legal and economical (financial) perspectives and to present the methodological approach for economic damages evaluation.

The analysis of recent studies and publications. In recent years, the concept of *economic loss* or *economic damage* are used very often as in Lithuanian as in foreign scientific literature. But so far, in the scientific publications of Lithuanian researchers and scientists these concepts on a broader exploration were not analyzed. Both these concepts are unique and exclusive, because of their wide spectrum of usage: they are used in economics, accounting, legal activities, etc.

The framework of the *damage* concept can be found at the first humanity known historical Roman Law sources - Law of the Twelve Tables (in 451 BC a set of legislation developed in Rome, written on an ivory table on Roman square). Whereas the main purpose of this publication is to analyze the economic damages, the main attention will be focused on historical survey of particular pecuniary damage. As the protection of pecuniary interests and rights was the

core of the Roman Law, in any situation firstly the tangible assets were analyzed. In order to punish the perpetrator and at the same moment to compensate the damage to the injured the fines were applied. This Roman Law principle (*Actionem poenales*) remained in Western Europe until the beginning of the XIX century [16]. Already in the Roman Law two large categories of illegal activities - wrongful acts against the person (*iniuria*) and unlawful damage to the foreign property (*damnum iniuria datum*) were identified. The consequence of each of them was to compensate for the damage suffered by the injured by a certain amount of money, which was adjudicated by the Court [22].

Table 1 - Theoretical analysis of damage and loss concepts

Definition/Viewpoint	Economic (financial) viewpoint	Legal viewpoint
LOSS	<ol style="list-style-type: none"> 1. The opposite of gain [13]. 2. Extracting less money from a transaction than one put into it [12]. 3. The decrease in economic benefits, which by its nature is different from other costs, compared to the income and is directly related to profits [30]. 4. Unrecoverable and usually unanticipated and non-recurring removal of, or decrease in, an asset or resource [5]. 5. A reduction in the value of an investment. 6. A condition in which a company's expenses exceed its revenues; opposite of profit [17]. 7. The loss is the result of the loss-profit report, where the costs exceed the income; as well as the desperate debt [33]. 	<ol style="list-style-type: none"> 1. The value placed on injury or damages due to an accident caused by another's negligence, a breach of contract or other wrongdoing. The amount of monetary damages can be determined in a lawsuit [24]. 2. The term loss is a comprehensive one, and relative, since it does not have a limited or absolute meaning. It has been used interchangeably with damage, deprivation, and injury. 3. When expenses are greater than profits, the difference between the amount of money spend and the income [24]. 4. A loss is the ascertained liability of the insurer, a decrease in value of resources, or an increase in liabilities. It refers to the monetary injury that result from the occurrence of the contingency for which the insurance was taken out.
DAMAGE	<ol style="list-style-type: none"> 1. Money a jury gives to a party in a lawsuit to compensate for some injury [12]. 2. An injury short of complete destruction inflicted upon persons, equipment, or installations [19]. 	<ol style="list-style-type: none"> 1. The damage caused by one person to another, or to his property, either with the design of injuring him, with negligence and carelessness or by inevitable accident [6]. 2. The individual has caused the damage is bound to repair it and, if he has done it maliciously, he may be compelled to pay beyond the actual loss. 3. Pothier (1699-1772) defines damage (<i>dommiges et interets</i>) to be the loss which some one has sustained, and the gain which he has failed of making [6]. 4. Monetary compensation that is awarded by a court in a civil action to an individual who has been injured through the wrongful conduct of another party. 5. Damages attempt to measure in financial terms the extent of harm a plaintiff has suffered because of a defendant's actions [6].

Source: presented by authors

The problematic of economic damages first started to be examined in the beginning of XX century. S. Chase (1922), one of the first American economists, who began to analyze the economic wastes involved in producing, distributing services and goods under the system of production for profit. Hereupon the concept *waste*, the synonymous to damage or loss, was used. Based on S. Chase, in business world the concept *waste* was understood as "inefficiency". But efficiency is only one of the methods used in order to increase profit under the price system. "Efficiency" deals with means and provides methods for reducing costs, increasing output, and getting to windward of one's competitors [9]. S. Chase tried to broaden this concept and in his book "The strategy of waste" identified the concept of *waste* to the *loss*, which is understood as the any obstacle forward the maximal use of cost at the maximal expenses [10].

It should be noticed that in scientific researchers of 20-30 years of XX century all scientists analyzed the economic damage under technological approach. Following the S. Chase, Hoover Committee quantified and identified the economic losses in USA production process as a part of production, working hours, human work which performs the difference between, on the one hand, the average achievements of the process of production, and on the other, the highest result have been achieved anywhere [23].

The scientific approach to the economic damages has not changed and over time. However in the 60-80 years of the XX century majority of Russian scientists started analyzing the economic damage both from technical and economical approaches. V. Sobol the economic damages characterized as losses from produced public products and national income [27]. In the most general features, due C. Golovin and A. Karev, the damages could be defined as irrationally used part of at hand resources in the form of irrevocable withdrawal from economic circulations and idle times of industrial resources [15]. Russian scientist K. Lejkina considered losses under the process of production and the process of realization of manufactured production. According to Lejkina losses in the broad sense of the word (socio-economic) quantified as a difference between objectively possible and the developed level of satisfaction of material and cultural demands of workers. Losses in the narrow sense of the word (economic) represent a difference between volume of production which could be created and realized by consumers at a rational use of alive work and presented level of technics development and production technology, and in volume of production in fact created and realized by the same consumers [19].

It should be noted that in the scientific literature besides the *damage* and *loss* concepts are used such concepts as *costs*, *lost income*, *lost profit*, *forfeiture*, etc. But the meaning of these terms, character, description and situation they should be used are different. According to modern society complexity of the legal and economic relations, there is a need for concepts *damage* and *loss* theoretical interpretation. Both of them are analyzed in two sections – legal and economical (financial), (see Table 1).

Performing the analysis of the *damage* and *loss* concepts, it is necessary to pay attention to their cause of the occurrence. As for the diversity of the reason these concepts have many synonyms in different activities. In economic (financial) activities synonyms will be following: non-realized income, the decrease in economic benefits, result according to profit-loss account, the various financial losses, etc. In the legal literature the synonyms are damage to property or person (pecuniary and non-pecuniary damage), injury, harm, miss of something, deficiency, etc. It should be noted that in the legal terms dictionary the interpretation of the *damage* concept has two meanings: 1. the loss for property or person; 2. violation of another person rights for which the legislation provides for the remedies. In the first case the damage could be comprehended enough constricted as the amount of compensation required to pay damage compensation of the incurred losses for the entity. In other case, the damage is comprehended more broadly, pecuniary or other kind of injury, which restores it to the previous situation by the violation [7, 28, 29].

The European Court of Justice in its decisions clarifies the concept of *damage* by noting that the damage – is the loss of property or other values protected by rights of anyone injured person or entity: defined and established economic losses due to really tangible losses (*damnum emergens*), both to the lost profit (*lucrum cessans*) [30]. In the Civil Code of the Republic of Lithuania both concepts *damage* and *loss* are used. In part 1 of the Civil Code of the Republic of Lithuania 6.249 article the concept of pecuniary damage is defines in general sense, as a loss of personal property or injury of a person, expenses incurred (direct damages), also unearned income that the person would have earned if there had been no illegal actions [8]. Loss is the monetary expression of the damage. The concept *loss*, used in the Civil Law, is distinct from the similar definitions used in economic sciences and in real practices of economical system, because the loss is understood as an economic category and are not necessarily the result of illegal actions, while under legal approach losses are caused by illegal acts and has a negative effects on the injured property [1]. According to V. Mikelėnas income lost is the loss arising from the damage to the primary object, which is used in order to receive the profit and revenue [21].

The main aim of the research. To analyze and present the theoretical interpretation of loss and damages concepts through legal and economical (financial) perspectives and to present the methodological approach for economic damages evaluation.

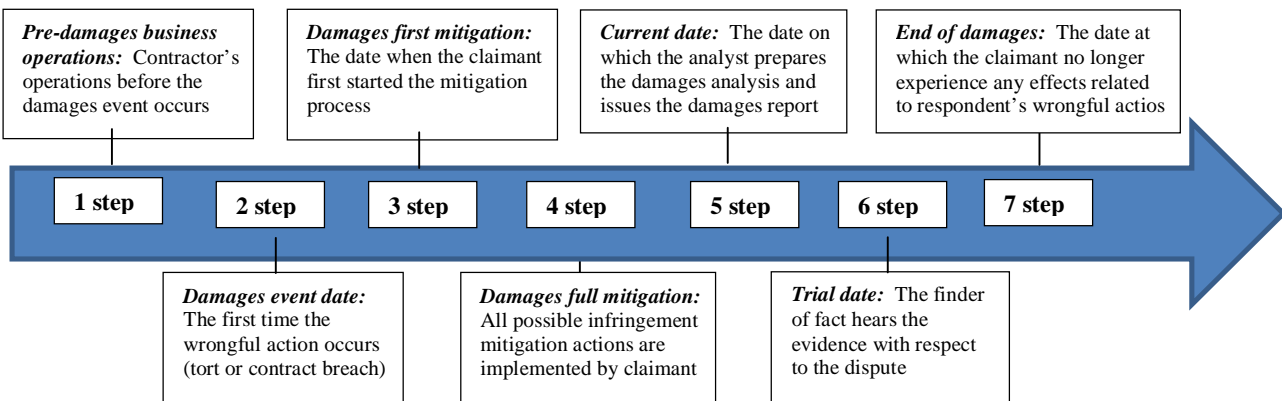
The publication findings. After completion the analysis of *damage* and *loss* concepts, it could be stated, that these are two different concepts but in nowadays marketplace they always are identified. In legal systems mostly *damage* concept is used, in economic activities – *loss*. It is impossible to define one or another pecuniary or non-pecuniary “action”, but in general sense both of these concepts can be analyzed through economic perspectives:

1. **Damage** is understand as: a) Lost property (object or financial assets); incurred costs and lost income, which entity would have received in the absence of unlawful action or any other event, which became the cause of the injury; b) Damage or vitiation of a certain object, a negative effect on it, what means that the economic value of this object is decreased, its qualitative characteristics are missed or the object is totally destructed; c) The difference between the current condition of the property, which would be appeared after a possible event and be the cause of injury;
2. **Loss** is understand as: a) the monetary expression that occurs in the context of regular economic activities, for reasons beyond the control of the entity's operations, means a reduction in most cases - property damage; b) The result of the loss-profit report when excess of expenditure over income, shows decrease in value - produces no benefit.

When the pecuniary loss is analyzed, it is very important to mention a separate category of pecuniary economic loss - *the pure economic loss*. In general sense *the pure economic loss* could be defined as a pecuniary or commercial loss that does not arise from actionable physical, emotional, or reputational injury to person, or physical injury to property [2, 3, 4, 25]. In different countries there is a different approach to the concept of pure economic loss. It should be noted that there are countries where the concept of pure economic loss in legal system is not used at all. Since the damage and its compensation is interconnected to liability, the concept pure economic loss is used just in the law of torts of those countries, which is based on the rule that, regardless of the damage complexion it should be restituted if all the conditions of liability are identified. For this group belong such countries as Belgium, France, and Spain. Tort Law in these countries is based on the common principle of *neminem laedere* (from Latin - don't do the damage).

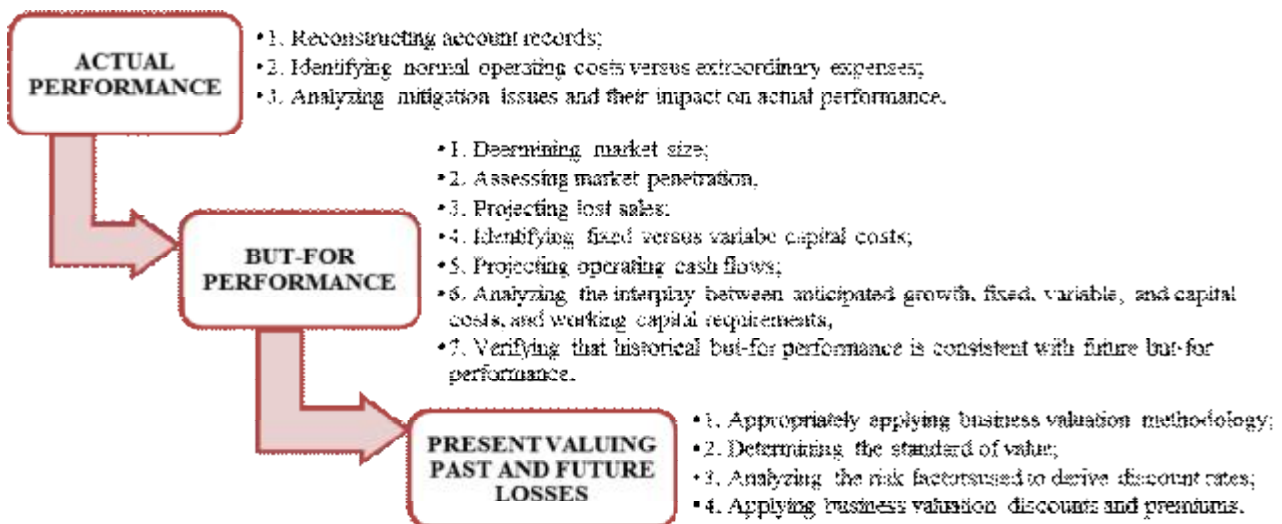
The second group includes the countries where in the legal systems the concept of pure economic loss is used. Those countries which are guided by the common principle that the economic damage is not the damage which should be compensated by using provided protection in law of torts, except for those situations where a pure economic damage is a result from the infringement of the values protected by the relevant legislation, for example, competition, intellectual property, etc. The above mentioned list of values includes just absolute law, the pure economic values are not protected and the general rule states that pure economic loss raised due to negligent actions pure economic damage is not compensated [14]. For this group belong such countries as England, Germany, Portugal and Sweden. The third group compounds the countries in which an intermediate approach to pure economic loss is valid: Italy, Switzerland, and Austria. If the legal practices of these countries show that, in particular, two things are protected – health and property, but in the civil codes of mentioned countries the general tort liability legal norms could be detected [32].

In Lithuania the pure economic loss identified and analyzed just in doctrine, whereas in the law practice such damage concept is not proposed [26]. In the main legal document of Lithuania Civil Code, the question of pure economic loss is not regulated. This is explained in 1 part of Civil Code 6.263 article – law of torts in Lithuania is based on the general tort doctrine. Pecuniary damage of this category is contrasted with the direct damage arising due to the direct impact to the object or person: a pure economic loss is a part of economic loss which is understood as a financial damage suffered by a person that is reflected in the balance sheet only [26]. Even after establishment all responsibility conditions it is very difficult to estimate the amount of damage, because determination of economic compensation limits is a complex problem, which combines several parameters. In order to define and quantify economic damages through all its perspectives, the unified approach for determining the economic damages should be performed. Derk G. Rasmussen and Joseph L. Leauanae suggest analyzing the economic damages through three distinct but interrelated components: *historical lost profits, future lost profits and causation*. [11]. All these three components should be identified and finally unified into a complete value for economic damages. Timetable in economic damage calculations is very important. In typical cases the damage analysis encompasses an extended damages period.



Picture 1. Timetable in economic damage calculations

Source: presented by authors



Picture 2. Methodological approach for economic damages evaluation

Source: presented by authors

In many cases economic damages are analyzed performing business or under industry, so their evaluation mostly focused on breach of contracts. In some cases economic analysis of damages are performed in two directions: *1. lost business profit analysis*; total business loss, forced market exit or shutdown, exclusion from market entry, loss of business opportunity, partial or temporary business loss, , business decline, business interruption, delay in market entry,

diminished robustness of market entry or growth; 2. *Lost Personal Earnings Analysis*: total or partial loss of personal income or value of benefits, loss or diminished value of personal property and assets.

Before the performing the economic damages calculation, the methodological approach for economic damages evaluation should be introduced.

During the *actual performance* the damaged party is analyzed during the period from the event date through the trial date. *But-for performance* should be analyzed as pre-trial and post-trial. Pre-trial but-for performance is fulfilled by the damaged party during the period from the event date through the trial date, but-for the injurious event; post-trial but-for performance – have been achieved subsequent to the trial date, either into perpetuity or for fixed period of time, but-for the injurious event. The assessment of actual and but-for performances are performed in past or future. In this case, for example, if the current year is 2011 and the projected but-for profits will be analyzed through the year 2016, then the projected profits for 2012 through 2016 must be adjusted to account for inflation and for the risk that the projected level of profits may not be achieved.

Analyzing economic damages in business under a unified approach three variations of economic damages models are presented: *a temporary decline in profit*: the damage event causes the damaged party to earn smaller profit that they would otherwise have earned but-for the damage event; *a permanent decline in profits*: the damaged party never fully recovers from the effects of the damage event but is expected to continue operating into perpetuity; *a permanent decline in profits followed by the destruction of the business*: the damaged party never fully recovers but rather goes out of business prior to the trial date.

Conclusions. The scientific approach of damage and loss concepts has not changed over time, although in any scientific references and legal documents the content of these concepts are interpreted differently. Although due to different circumstances: cause of the occurrence, place of event, different character, the meaning of these concepts is very close. From economic perspective damage could be understand ternary: 1. lost property (object or financial assets); incurred costs and lost income; 2. decrease of the project economic value; 3. The difference between the current condition of the property and after possible event; loss could be understand twofold: 1. the monetary expression that occurs in the context of regular economic activities, for reasons beyond the control of the entity's operations, means a reduction in most cases - property damage; the result of the loss-profit report when excess of expenditure over income, shows decrease in value - produces no benefit.

Performing the analysis of any damage event, it is very important to comply with the timetable of economic damage calculations. In order to quantify economic damages under business or industry, the evaluation should be implemented through three groups of performances: actual performance, but-for performance and present valuing past and future losses. Following step by step the action in each group of performance the results of economic damage evaluation will be precise and correct.

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ASPECTS OF ECONOMIC POLICY IN THE AGRICULTURAL SECTOR

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Blazheva V. Aspects of economic policy in the agricultural sector.

The Common Agricultural Policy consists of European legislative acts and practices intended to implement a common (uniform) policy in the sphere of agriculture. This paper aims to study the tools and mechanisms of the Common Agricultural Policy of the European Union – a policy with a 50-year-old history and its application in agriculture. The emphasis is on the ongoing reforms in the sector and the challenges for the implementation of the European agricultural policy after 2013. The "European model of sustainable agriculture" (a policy consistent with the agricultural expenditure in the EU financial framework until 2013 and aimed at improving the Common Agricultural Policy) is to achieve sustainable development, high quality health products and methods for sustainable environmentally-friendly manufacturing. The European Union membership leads to greater predictability and consistency of agricultural policy and, respectively, of prices. The Common Agricultural Policy is flexible and in tune with reality, in which it must function; the changes are not surprising or arbitrary, as it sometimes happens with national policies. After 2013, the Common Agricultural Policy of the European Union will be directed to sustaining the population, sustainable use of natural resources and economic development of Europe's rural areas.

Блажева В. Аспекты экономической политики в аграрном секторе.

Общая сельскохозяйственная политика состоит из европейских законодательных актов и практик, целью которой является проведение общей (единой) политики в области сельского хозяйства. Настоящая разработка преследует цель исследовать инструменты и механизмы Общей сельскохозяйственной политики Европейского союза – политики с 50-летней историей и ее применение в аграрном секторе. Внимание