

Tetyana Tytarenko,
assistant at Theory and History of State
and Constitutional Law Department,
Chernihiv National Technological University,
Chernihiv, Ukraine

THE MECHANISM OF STATE REGULATION OF LAND RELATIONS IN UKRAINE

In the article the structure of the mechanism of state regulation of land relations in Ukraine aimed at improvement and development of land relations on the modern stage of development. Formed vision for the future of management instruments in land use that allows to solve important problems on ensuring effectiveness of implementation of the state policy regulation of land relations in Ukraine in the plane of the possession, use, protection and reproduction of land.

Keywords: state regulation, mechanism of state regulation, land relations, land use.

Tytarenko T. G. Mechanizm regulacji stosunków lądowych w Ukrainie

W pracy zbadano i określono strukturę mechanizmu regulacji stanu stosunków lądowych na Ukrainie na obecnym etapie ich rozwoju. Założony wizję narzędzi zarządzania w obszarze ziemi, która rozwiąże problemy ważne dla zapewnienia skuteczności realizacji polityki państwowej regulacji stosunków lądowych na Ukrainie stosownie wykorzystania i ochrony ziemi.

Słowa kluczowe: administracja publiczna, mechanizm regulacji, stosunki lądowe.

Титаренко Т.Г. Механізм державного регулювання земельних відносин в Україні

У статті досліджено та визначено структуру механізму державного регулювання земельних відносин в Україні, спрямовану на вдосконалення та розвиток земельних відносин на сучасному етапі їх розвитку. Сформовано бачення майбутнього управлінського інструментарію у сфері землекористування, що дозволить вирішити важливі проблеми щодо забезпечення результативності реалізації державної політики регулювання земельних відносин в Україні у площині володіння, використання, охорони і відтворення земель.

Ключові слова: державне регулювання, механізм державного регулювання, земельні відносини, землекористування.

Титаренко Т.Г. Механізм державного регулювання земельних відносин в Україні

В статті досліджено і визначено структуру механізму державного регулювання земельних відносин в Україні, що направлена на удосконалення і розвиток земельних відносин на сучасному етапі їх розвитку. Сформульовано бачення майбутнього управлінського інструментарія в сфері землекористування, що дозволить вирішити важливі проблеми по забезпеченню результативності реалізації державної політики регулювання земельних відносин в Україні в площині володіння, використання, охорони і виробництва землі.

Ключевые слова: государственное регулирование, механизм государственного регулирования, земельные отношения, землепользование.

Introduction

Land and land issues are of critical importance for the successful development of both regions and the state as a whole. Negative phenomena are caused by ill-considered government policy regulating land relations in Ukraine, give rise to problems connected to the conservation, rational use and protection of lands of different purpose and, consequently, cause failure of the main states of the concept of sustainable development. Negative trends observed in the use of land require new institutional and legal approaches to state regulation of land relations and land use and creation of economic incentives for sustainable use and protection of land in Ukraine.

Analysis of recent research

The following research works by: A. Alymov, A. Kuzmin, A. Miroshnichenko, L. Nowakowski, W. Nosik, A. Tretyak, M. Shulga, Sh.Ibatullin, A. Stepenko, and other scientists are dedicated to the theoretical and applied aspects targeted modernization and reform of government land relations and, in particular, mechanisms of land relations in the context of sustainable use, protection and restoration of land resources in Ukraine.

However, the appearance of controversial actions during the land reform and market relations, bias and inconsistency to current market conditions of the mechanism regulation of land relations of the state, its inattention to the task of reforming the social base of training and other aspects of the multifaceted problem remain controversial and require further investigation.

Statement of research objectives

The aim of our research work is to determine the nature and structure of the state regulation of land relations in Ukraine today.

Results

The concept of the mechanism of regulation of land relations in general, is not new to science management, but today there are no sufficient grounds to consider it thoroughly investigated. Therefore, to determine the nature and content, and structure of the state regulation of land relations in Ukraine should consider the following methodological basis:

1) the main purpose of the mechanism of state regulation of land relations - is the organization processes of rational land use and land protection;

2) the mechanism of state regulation of land relations includes: a) as the organization of land use and management through actions of legal, organizational, administrative and economic methods and instruments that affect the implementation of land relations; b) functionality is not static, but constantly evolving, having a series of stages from simple to complex functional management system;

3) the effective functioning of state regulation of land relations, which subordinate tools, instruments and methods of influence on the process of rationalizing land use depends on the completeness of providing economic interests of land relations, as well as the interests of society in environmentally safe conditions for economic activity and accommodation citizens;

4) ensuring the implementation of the process of land use, mechanism of state regulation of land relations in Ukraine should embrace either regulatory actions aimed at adapting to changes in both economic and environmental situation in the country and the world.

Thus, the mechanism of state regulation of land relations in Ukraine is the system of actions and legal, organizational, economic, administrative and managerial techniques, instruments of influence in which put into effect the processes of rational use and protection of land and regulation of this mechanism is carried out in accordance to certain principles. At the same time, the mechanism of state regulation of land relations form a system whose elements are general and special arrangements are largely used comprehensively.

Different research schools classify the nature of the mechanisms of land management in different ways. Tretyak A.M. [1, p. 165] distinguishes legal, organizational, economic, financial and land submechanisms within it. Ibatullin C.I., Stepenko O.V, Sakal O.V. [2] provides administrative and legal, social and psychological, financial and economic also organizational submechanisms.

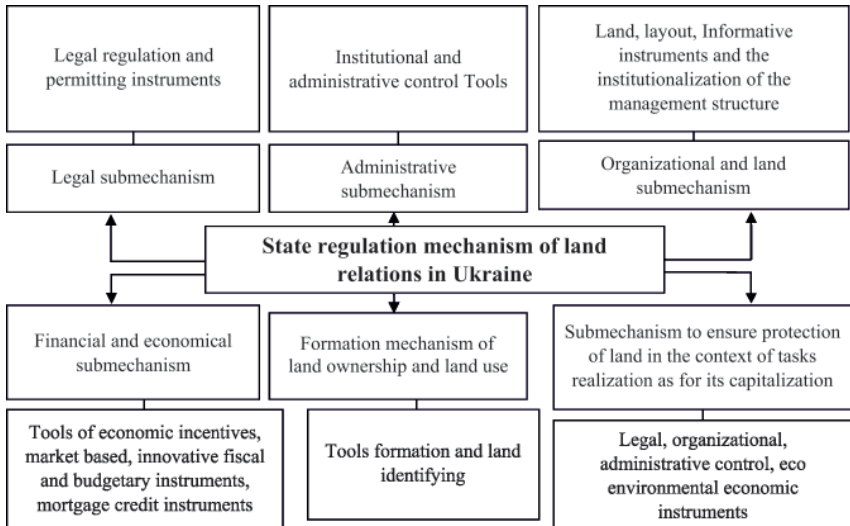
Analyzing and summarizing current scientific achievements by Ukrainian scientists and the scientific results of their applied research the mechanisms can be grouped different by nature of state regulation of land relations and means of their implementation, software development tools and land relations. Then, in our opinion, the general components of the mechanism of state regulation of land relations include the following three of its basic components. Namely the following submechanisms :

- 1) legal;
- 2) administrative;
- 3) finance and economic.

Along with listed, among special submechanisms regulation of land relations should also highlight the next potentially determinant factors (submechanisms):

- 1) organizational landlined;
- 2) formation of land ownership and land use;
- 3) ensuring the protection of land in the context of the tasks of its capitalization.

The overall structure of the state regulation of land relations is shown by the author in pic.1.



Pic. 1. State regulation mechanism structure of land relations in Ukraine

Certainty general mechanism of regulation content certainty in the context of further capitalization of land resources in the country allows to distinguish the most significant by far the most effective tools applied to be used within the legal submechanism of state regulation of land relations. The latter comprises a group of instruments of direct impact on social relations as for possession, disposal, use, protection and reproduction of land resources (Table. 1).

Table 1

**Applied toolkit of legal submechanism state regulation
of land relations in Ukraine ***

Legal regulation instruments	Permitting instruments
Development and adoption of natural resource and environmental legislation;	- Licensing of economic activities as for the environmental impact
- General and sectoral / industry strategy for sustainable development roadmaps agreed with the concept of building a new regional maps (at the request of the Association Agreement);	- Licensing of economic activities as for the environmental auditing, control and monitoring
- Conception, strategy, state target program of development of land relations;	- Permits for industrial and economic activities;
- Plans and projects use, protection and reproduction of land resources;	- Implementation of certification engineers, surveyors,
Regulations, orders, instructions, letters, explanations as for the use, protection and reproduction of land resources;	- Permits for waste disposal, their storage or storage;
- Consideration of environmental aspects of land use in statistical reporting	- Urban procedures; - Environmental impact assessment; - State ecological expertise; - Assessment of impact on the environment.

** Source identified and summarized the results of author identification instruments, controls and toolbar, represented in [1, pp. 165-171; 3, p. 16-18].*

The following instruments of state and regional land use management are involved: a) instruments of regulation; b) licensing tools.

Therefore, the fundamental principle of legal submechanism state regulation of land relations in Ukraine - is a legal framework that defines the relationship of land relations and organizational management structure appropriate land use in Ukraine. At the present stage of historical development national economy, the overall socio-economic systems and their functioning, the state, through legislative framework, a policy aimed at improving the economic independence of territories and gives local governments the opportunity to dispose of the lands of communities (recognized and shown in scientific source [4]).

The legal and regulatory bases allow to monitor the activities of local governments in regulating land issues by requiring the approval of land use documentation by the executive authorities. Instruments of regulation - are binding and provide specific legal way to influence the behavior of land relations on consolidation of land ownership, contents and methods of implementation, to ensure rational land use, protection and reproduction of land resources, environmental protection, protection of the environmental rights and interests of society and business entities. At the same time, toolbar of regulation include environmental and resource laws and regulations.

It should be noted that the instruments of regulation designed to ensure the effective implementation of the law in the process of public policy regulating land relations. They provide that entities of forming legislative and regulatory base establish the legal basis for the guaranteed security and development of measures to ensure the implementation of fundamental rights, freedoms and responsibilities of land relations. Besides, the implementation of the law in the public administration sphere of land relations is ensured through appropriate laws and regulatory acts, the adoption of public authorities of certain decisions, and creating mechanisms and institutions for the enforcement of law, development and legislative approval of state standards (proven in scientific sources [1, pp. 165-171; 2, p. 16]).

The guiding purpose of legal submechanism state regulation of land relations - are forming and securing the right of every person and of society as a whole to a safe environment, the definition of the rights of citizens and legal entities to private ownership of land and other natural resources.

Administrative submechanism state regulation of land relations permeates all levels and relations in the sphere of state regulation and, therefore, is a combination of effects techniques based on the use of objective organizational relationships between people and the general principles of organizational management. Implementation of administrative action submechanism is carried out through the use of organizational, administrative and economic methods of influence - general toolbar is presented by the author at the table. 2.

**Administrative toolkit submechanism
state regulation of land relations**

Institutional Administrative Tools	Administrative control Tools
<ul style="list-style-type: none"> - Separation of powers of state and local government (in particular the functions of management and control) in relation to land resources; - Disposal of state-owned lands on the results of the application of the new methodology for evaluating the value of land resources in Ukraine and its regions; - Realization of state policy on land use and protection; - Institutionalization forms of land ownership and land rights; 	<ul style="list-style-type: none"> - State control over the use, protection and reproduction of land resources; - Public control over the management, protection and reproduction of land resources; - Responsibility for violations / failure to legislate on property protection and reproduction of land resources; - Monitoring of the environment / environmental and ecological audit; - Environmental certification and standards, regulations, rules, limits, regulations.

* Source identified and summarized by the author according to sources [1, pp. 129; 2, p. 16-18].

Administrative submechanism state regulation of land relations is a combination of effects techniques based on the use of objective organizational relationships between people and the general principles of organizational management. Implementation of administrative action submechanism is carried out through the use of organizational, administrative and economic methods. Without its use within the general mechanism of regulation of land relations is impossible to achieve the goal of orderly influence the behavior of the various actors of public relations. With administrative submechanism an executive exercises influence over the management through the use of administrative forms of governance. At the same time, administrative submechanism usually qualifies as a method or means of influencing the activity of enterprises, institutions and organizations, officials and citizens through direct installation of their rights and responsibilities through orders (and acknowledged shown in [5]). Such managerial influence comes directly from the power of nature management - thus implemented the executive. Without administrative submechanism within the general mechanism of regulation of land relations is impossible to achieve the goal of orderly influence the behavior of various members of management of public relations.

Characteristic features of administrative submechanism are:

a) direct impact on the managed object by setting its powers (rights and obligations);

b) on the subject of governance closest choice and ultimate goal, task management process, procedure, terms of their performance object, resource support, in terms of tasks each stage;

c) legal binding asset management (decrees, resolutions, decisions, regulations, orders and resolutions), the failure of which is considered as a breach of duty and may cause not only administrative or disciplinary responsibility, but also criminal [6].

Administrative submechanism state regulation of land relations in Ukraine unites:

a) institutional instruments;

b) administrative and control tools.

Accordingly, institutional instruments are used for securing property rights to land resources for the effective owners to ensure their most efficient use, protection and reproduction. The same instruments / toolbar of administrative influence guarantee ensures all components of the powers of ownership and land use rights owners (users). This separation of powers of state and local governments, including the management and control functions, can also be provided by institutional instruments [2, p.16].

Administrative control tools provide administrative regulation and control of land resource and environmental use by means of approving by the regulator mandatory environmental and technological standards, regulations and other rules and behaviors. Regulator can be a sectoral (industrial) public bodies, local authorities and administrative bodies of land.

Thus, the purpose of administrative submechanism of the state regulation of land relations is the implementation of administrative influence on land relations through the use of administrative forms of governance to achieve effective and sustainable land use.

Certainly, we can confirm about the existence of close links between the administrative and legal submechanism of state regulation of land relations, as indicated levers and regulators, together, define the threshold setting of boundaries / borders and “rules” in the context of consolidation of interaction between the subjects of land relations and regulation of the use, possession and reproduction of land resources. At the same time, administrative and legal submechanisms of state regulation of land relations have both advantages and disadvantages of their own.

The advantage of legal instruments and administrative mechanisms is a direct and meaningful impact on the mechanism of land policy, their condition or activities / transformation of the latter. The disadvantages are the lack of flexibility and rapid response to the dynamics of the subject and object of land relations, the lack of effect

of stimulating innovation. Disadvantages administrative and legal submechanisms determine the need for their use in combination with other submechanisms [2, p. 16]. But we confirm the fact that, currently, the definition of the basic principles of state policy of land law and its regulatory and legal framework is not sufficient to safeguard the efficiency and effectiveness of implementation of the scheme, aimed at solving real problems of landowners and land users in Ukraine.

To implement the land law it is necessary to create effective organizational and Land Management submechanism. This submechanism is, firstly, a form of interaction between participants. And, secondly, a set of various organizational and land elements. This organizational land submechanism of state regulation of land relations incorporates the range of surveying, planning tools and instruments of institutionalization of the management structure (Table. 3.).

Table 3

The basic structure of application tools incorporated into the organizational and Land submechanism of state regulation of land relations in Ukraine*

Toolkit			
Land Management	Layout	Informative	The institutionalization of the management structure
purpose and limitations (encumbrances); - Contour reclamation organization of the territory; - Crop rotation in the production of agricultural produce; - Land management reporting and land management projects; - Technical documentation on land management	national and regional programs of land use and protection; natural of agricultural zoning and master plans of cities; use planning scheme area village (town) council and plans for land-economic structure of the residential areas, zoning land.	Monitoring of land and soil; - Open access to information of the state land cadastre Ukraine and the system of registration of land, property and rights to them, - Generalize the practice of application of legislation on land relations.	The hierarchical structure of the subject land relations in the country.

* Source identified and summarized by the author according to sources [1, pp. 187-195; 2, p. 18-22].

The later provides current regulation of land relations in the framework of sustainable development of social relations in the country. As a tool for

organizational and land submechanism, land management is a set of socio-economic and environmental measures to regulate land relations and streamlining and organizing the territory administrative-territorial entities, entities committed under the influence of social and industrial relations in the context of development of productive forces of Ukraine.

We should note that in the land management process the redistribution of land, forming rational land tenure and land use, provision (purchase) and withdrawal (sale) of land for agricultural and non-agricultural purposes, giving it out to businesses and citizens (found in the sources [1, 2]) is implemented. Currently, land management is one of the most effective methods of land management at regional and local levels.

Financial and economic submechanism of state regulation of land relations determine the composition of economic tools and financial instruments to ensure the development of a modern system of land relations at the national, regional and local levels of the economic justification of specific measures aimed at the rational use and reproduction of land management areas of the country (Table. 4) [2, p. 22]. The selected group of tools allows to substantiate and define areas of financial and economic impact on the subjects of land relations for sustainable land tenure and land use.

Table 4

**Tools of financial and economic submechanism
of state regulation of land relations in Ukraine***

Tools of economic incentives	Market based instruments	Mortgage credit instruments	Fiscal and budgetary instruments	Innovative tools
Government subsidies, grants and subventions; - Tax and credit incentives; - State funds	The market price of land; -Expert evaluation of the land; -Land auctions; - Ecological marketing	- Land and land mortgage banks; -State concessional lending	- land tax; - Environmental taxes; - Penalties; - rent; -Regulatory assessment of land	- State Innovation Fund; - Eco innovation in land use; - Interest-free budget loans; - Innovative projects for sustainable land use

* Source Overview author by sources [1, pp. 172-177; 2, p. 23].

In particular, the tools of economic incentives are measures that use market instruments to achieve the goals intended to guide the activities of participants

of land relations in environmentally favorable direction towards sustainable use of land resources by influencing the costs and benefits available to them different alternatives of behavior. Such tools are the most significant lever to encourage landowners and land users to rational use and protection of land resources. However, the implementation of legally binding measures should be aimed at prevention of such entities on the ground that contradicts the norms and standards of the protection and restoration of land resources. Tools of economic incentives of rational use and protection of land resources form the basis for further environmentally sound and sustainable land use and therefore provide the same conditions for all land owners and land users.

Currently, there is an urgent need to introduce technology to help solve specific problems of rational use and restoration of land as strategically important for Ukraine natural resource. Thus, within submechanism of formation of land ownership and land use in the country it is necessary to make the development / selection to use specific tools for formation and identification of land state, communal and private property (tab. 5).

The lands of Ukraine are situated within the territory of our country (within the state border) surface layer of the crust, which is used for various social needs. In order to meet land rights and legal interests of citizens and legal persons to use the land the later should take the legal regime of the appropriate object land law. Forming land is identifying land as an object of civil rights and providing the definition of the area, boundaries and entering information about them in the State Land Cadastre.

Table 5

Richness and composition under formation mechanism of land ownership and land use in Ukraine *

Tools formation of land	Tools of land identifying
<ul style="list-style-type: none"> - Allocation of land plots of state and municipal property; - The separation or unification of earlier existing land; - Determining the boundaries of land; - State registration of land. 	<ul style="list-style-type: none"> Cadastral number of land; - State Land Cadastre of Ukraine

**Source is systematized and summarized according to the author [7; 8].*

We should emphasize the importance of mandatory application of submechanism of formation of land ownership and land use in the regulation of land relations is that the land may be a subject to civil rights alone since its formation (except sublease, easement on part of land sections) and state registration of ownership of it.

According to the above, it should be recognized that submechanism ensures the protection of land in Ukraine:

a) is a special lever regulation of land relations, which includes tools of administrative, legal, financial and economic mechanism of regulation of land relations;

b) integrates the tools of direct and indirect effects on the subjects of land relations in order to stimulate them to commit or refrain from certain actions during the land use, aimed at the interest of landowners and land users to optimize their interaction with the land as a natural resource (Table. 6).

Table 6

Structure of submechanism to ensure protection of land in Ukraine *

Legal instruments	Organizational instruments	Administrative control institutions	Eco environmental economic instruments
<ul style="list-style-type: none"> - Legislative consolidation of the purpose of land; - Development of national and regional (republican) programs of land use and protection, land management documentation in the field of land; - Standardization and regulation. 	<ul style="list-style-type: none"> State comprehensive system of supervision; - Ecological Network; - Documentation of land management in the area of land; - Providing natural agricultural, environmental and economic, anti-erosion and so on. types of zoning (zoning) of land. 	<ul style="list-style-type: none"> administrative, criminal, civil liability for damage caused to the land; - State control over the protection and renewal of land resources; - Public control over the protection and reproduction of land resources; - Permits for waste disposal, their warehousing / storage; the results of impact assessment NPC and state ecological expertise; - Assessment of anthropogenic impact on the NPC. 	<ul style="list-style-type: none"> Tax breaks to develop ecological products, - Tax and credit incentives to individuals who carry out at its own expense measures to protect land from erosion, improve soil fertility; - Exemption from land users and landowners of the land for the land on which the works of reclamation, remediation, conservation lands and others. works to protect land in the interim period, conservation, construction and agricultural land development; - Compensate agricultural producers nedooderzhanoyi share of income due to degraded, unproductive, technologically contaminated land. And also: a) the use of accelerated depreciation environmental protection; b) preferential loans and subsidies eco projects; c) grants for the purchase of environmental equipment; d) bonuses based on the results of environmental activities; e) payments for pollutant emissions, waste disposal.

* Source defined and systematized by author sources [1, pp. 179-180; 8; 9].

The Land Code of Ukraine defines land protection as a system of legal, organizational, economic and other measures aimed at sustainable land use, preventing unjustified seizure of agricultural land and forestry purposes, protection from harmful anthropogenic impact, restoration and improvement of soil fertility, increase productivity of land for forestry purposes, providing special treatment of land use environmental, health, recreational, historical and cultural significance. The objectives of land protection is to ensure the conservation and restoration of land resources, ecological value of natural and acquired qualities of lands. Then the tools of submechanism of land protection insurance in Ukraine can be divided into:

- Incentive - “cake method” encourage of the development of ecologically and environmental industries and activities. Such measures include tax breaks to develop ecological products, preferential loans and subsidies to eco projects, subsidies for the purchase of environmental equipment, the use of accelerated depreciation of fixed assets land and environmental protection; bonuses based on the results of environmental activities;

- Forced - «whip method» limitations of naturally operating activity using rigid legal, tax, credit, penalty policy. Such measures virtually inhibit the development of certain industries and the expansion of facilities in their natural basis, generally helping save natural resources. These include charges for pollutant emissions, waste disposal, fines for violations of environmental legislation, reduction of subsidies to non-environmental production, increased taxation «non-environmental» products;

- Compensatory - measures to combat the consequences (not the causes) man made type of economic development. These include compensation for losses, creation of environmental funds, environmental insurance.

Also, should pay attention to such a tool mechanism for ensuring protection of land as a division of the land for the intended purpose. This tool is one of the most important legal instruments in ensuring rational land use and land protection. In general understanding, when the purpose of land should be understood as defined by the legislation the legal regime of its operation (use), which provides the realization of the right to use the land in ways that correspond to the public interest and not be doing damage to the environment [10]. However, it is setting the purpose of land use the state provides special protection of land as a basic national wealth, thus realizing the provisions of Art. 14 of the Constitution of Ukraine.

Conclusions. The mechanism of state regulation of land relations in Ukraine is an integrated set of instruments, controls, methods and application tools, regulators political and legal, organizational, economic, structural,

financial and information management influence that is directed to achieve high efficiency regulation of land relations in order to make sustainable use and protection of land as a resource of nature, the use of which in the limitation of resources that exist at present in the country will ensure food security and create conditions for environmentally friendly economic activities and residence of citizens. They are closely linked, but retain their individual values and have the final environmental and social goals.

Therefore, we confirm the following: currently, there is an urgent need for the application of complexity within the system of state regulation in Ukraine shown in Fig. 1 submechanisms, as evidenced by the implementation of environmental policy in the European Union, which is based on the use of flexible economic priority, particularly market instruments of land relations in the context of sustainable development of the country and its regions, implemented by using the principles of objective capitalization of land resources .

References

1. Land Management [Text] / Edited by Professor A. Tretyak. Textbook. - Ball: A New Book, 2006 - 360 p.
2. Ibatullin Ch. I. Mechanisms of land relations in the context of sustainable development [Text] / Ch. I. Ibatullin, A.V Stepenko, A. V. Sakai [et al.]. - K.: State Institution "Institute of Environmental Economics and Sustainable Development of the National Academy of Sciences of Ukraine», 2012. - 52 p.
3. Martin A.G Directions improving land management in modern conditions [electronic resource] / AG Martin. - Access: <http://zsu.org.ua/andrij-martin/73-2011-01-18-12-30-31> [screen name]
4. Regional economy: textbook [Text] / ed. E.P Plug. - K.: Knowledge, 2011. - 670 p. - (Higher Education XXI century).
5. Administrative Law Ukraine: textbook [Text] / [J. P. Bytyak, VN Garashchuk, OV Dyachenko et al.] Ed. YP Bytyaka. - K.: Yurinkom Inter, 2007. - 544 p.
6. Glossary of terms and concepts of governance [Text] / way.: V.Y. Malinowski. - K: Center for Support of Civil Service Institutional Development, 2005. -254 p.
7. Law of Ukraine «On State Land Cadastre» from 07.07.2011 p. № 3613-VI as amended [electronic resource]. - Access: <http://zakon4.rada.gov.ua/laws/show/3613-17>.
8. The Land Code of Ukraine from 25.10.2001 № 2768-III as amended [electronic resource]. - Access: <http://zakon4.rada.gov.ua/laws/show/2768-14>

9. The Law of Ukraine «On Land Protection» from 19.06.2003. № 962 as amended [electronic resource]. - Access: <http://zakon4.rada.gov.ua/laws/show/962-15>

10. Martin AG Modern classification of land for the intended purpose [electronic resource] / AG Martin. - Access: <http://zsu.org.ua/andrij-martin/82-2011-02-08-11-56-31> [screen name]