

UDC 343. 9

DOI <https://doi.org/10.24144/2788-6018.2025.05.2.49>

ADMINISTRATIVE AND LEGAL PRINCIPLES OF PROTECTION OF LAND RELATIONS IN UKRAINE

Timashov V.O.,

*Doctor of Juridical Sciences, Professor,
Professor at the Department of Administrative,
Financial and Information Law
State University of Trade and Economics*

Petrytskyi A.L.

*Candidate of Legal Sciences
Deputy Director of the Department of Public Law
Head of the Department of Constitutional
and Administrative Legislation
Ministry of Justice of Ukraine*

Yarova R.O.,

*bachelor's degree student
Faculty of International Trade and Law
State University of Trade and Economics*

Timashov V.O., Petrytskyi A.L., Yarova R.O. Administrative and legal foundations of land relations protection in Ukraine.

The article is devoted to a comprehensive analysis of the administrative-legal principles of land relations protection in Ukraine. The work analyzes the essence of land protection as a legal category and its place in the system of environmental and land law. Particular attention is paid to a thorough analysis of the means of administrative-legal influence, which include: the permitting system, which includes environmental permits, approval of land management projects and environmental impact assessment; mechanisms for control and supervision of compliance with the requirements of land legislation; as well as administrative coercion measures, in particular, the issuance of regulations, prohibition of activities and the imposition of fines. The text analyzes the important role of public authorities in the relevant field, in particular the functions of the Verkhovna Rada and the Cabinet of Ministers in the process of rule-making activities. The important participation of local governments in ensuring the implementation of environmental policy at the regional level is also emphasized. The regulatory and legal basis of the studied area includes the provisions of the Constitution of Ukraine (Articles 13, 14), the Land Code of Ukraine, the laws of Ukraine "On Land Protection" and "On State Control over the Use and Protection of Lands", subordinate regulatory acts, as well as international documents ratified by Ukraine, in particular the Aarhus Convention and European Union directives.

The article examines key problems of law enforcement, among which the insufficient effectiveness of state control, cross-duplication of functions between various bodies, low level of implementation of regulatory requirements and formal approach to the application of certain administrative sanctions are highlighted. Directions for improving the administrative and legal mechanism are outlined, including harmonization of national legislation with European standards, introduction of digital technologies in maintaining the land cadastre, increasing the efficiency of public control and optimization of the administrative responsibility system.

Key words: land protection, land relations, administrative law, administrative-legal principles, environmental safety, state control, administrative responsibility in the field of land relations, land code, public administration.

Тімашов В.О., Петрицький А.Л., Ярова Р.О. Адміністративно-правові засади охорони земельних відносин в Україні.

Стаття присвячена комплексному аналізу адміністративно-правових принципів охорони земельних відносин в Україні. У роботі аналізується сутність охорони земель як правової категорії та її місце у системі екологічного та земельного права. Особлива увага приділена ретельному аналізу засобів адміністративно-правового впливу, до яких належать: дозвільна система, що включає екологічні дозволи, погодження проектів землеустрою та оцінку впливу на довкілля; механізмам

контролю та нагляду за дотриманням вимог земельного законодавства; а також заходам адміністративного примусу, зокрема видачі приписів, заборона діяльності та накладення штрафних санкцій. У тексті проаналізовано важливу роль органів публічної влади у відповідній сфері, зокрема функції Верховної Ради та Кабінету Міністрів у процесі нормотворчої діяльності. Також підкреслено важливу участь органів місцевого самоврядування у забезпеченні реалізації екологічної політики на регіональному рівні. Нормативно-правова основа досліджуваної сфери включає положення Конституції України (статті 13, 14), Земельного кодексу України, закони України «Про охорону земель» і «Про державний контроль за використанням та охороною земель», підзаконні нормативні акти, а також міжнародні документи, ратифіковані Україною, зокрема Орхуську конвенцію та директиви Європейського Союзу.

У статті розглянуто ключові проблеми правозастосування, серед яких виділено недостатню дієвість державного контролю, перехресне дублювання функцій між різними органами, низький рівень виконання нормативних приписів і формальний підхід до застосування окремих адміністративних санкцій. Окреслено напрями для вдосконалення адміністративно-правового механізму, серед яких гармонізація національного законодавства з європейськими нормами, впровадження цифрових технологій у ведення земельного кадастру, підвищення ефективності громадського контролю та оптимізація системи адміністративної відповідальності.

Ключові слова: охорона земель, земельні відносини, адміністративне право, адміністративно-правові засади, екологічна безпека, державний контроль, адміністративна відповідальність в сфері земельних відносин, земельний кодекс, публічне управління.

Problem Statement. Ukraine has historically considered land to be one of the most valuable national resources, which is under the enhanced state protection. However, today's conditions, marked by military conflicts, intensive construction, the implementation of the land reform and the increase in anthropogenic impact on nature, significantly complicate the maintenance of effective regulation of land relations and guaranteeing their proper protection. Practice shows that the modern system of administrative and legal regulation of land protection faces a number of serious problems. These include duplication of functions of regulatory bodies, inadequate efficiency of administrative instruments, the formal nature of sanction enforcement and the low level of compliance with established requirements. The spread of cases of unauthorized occupation of land plots, soil degradation, illegal mining and other violations of land legislation is becoming an increasingly pressing problem. In such conditions, there is an urgent need for a deep analysis of administrative and legal mechanisms for regulating land relations, an assessment of their current state and the development of effective ways of improvement, especially in the context of Ukraine's European integration.

The aim of the article. The research is aimed at a comprehensive study of the administrative and legal foundations of land relations regulation in Ukraine, determining their significance in ensuring the effective use and proper protection of land resources. It includes an analysis of current problems of law enforcement, as well as the development of recommendations for improving the administrative and legal mechanism of land protection, based on national interests and the requirements of European standards.

State of scientific research on the issue. Analysis of the state of research on the administrative and legal foundations of land relations protection in Ukraine indicates a significant number of scientific works that highlight individual aspects of this issue. In particular, the works of such specialists as V.I. Andreytsev, A.P. Getman, I.I. Karakash, N.R. Malysheva, O.O. Pogribnyi, V.K. Shkarupa and others consider the issue of legal regulation of land protection, mechanisms of administrative liability related to violations of land legislation, interrelation of land and environmental law, as well as the specifics of management in the field of natural resource use. Despite this, the main attention of most studies is focused mainly on theoretical and industry aspects, while practical problems of law enforcement remain insufficiently covered. In particular, such issues as duplication of functions of government bodies, insufficient effectiveness of administrative sanctions and harmonization of Ukrainian law with European Union legal standards require detailed analysis. All this indicates the need for a comprehensive analysis of the current state and prospects for improving administrative and legal mechanisms for the protection of land relations.

Main material. Land relations are a set of social relationships that are formed in the process of using, managing and protecting land resources. These relationships have a dual nature. On the one hand, they are aimed at regulating the rights and obligations of private owners and users of land plots. On the other hand, their goal is to guarantee the implementation of important public interests, among which it is worth highlighting the rational use of land, environmental protection and compliance with the requirements of current land legislation. Land relations, as an object of administrative and legal

regulation, cover a broad spectrum of interactions: ranging from issues related to land ownership and land use to measures to prevent degradation, pollution and illegal exploitation of land resources. Effective regulation in this area contributes not only to the protection of the rights of owners, but also to the rational use of natural resources, ensuring environmental safety and maintaining sustainable development of the country. According to scientists, land relations occupy an important place among public legal relations, as they cover both the interests of individual citizens and the needs of the state [1]. In particular, Zapototska O.V. and Pustovit Y.Y. emphasize that the administrative powers of state bodies play a key role in establishing the legal order in the field of land use. At the same time, the level of effectiveness of land protection significantly depends on the correct implementation and use of these mechanisms [2]. Land protection is a fundamental component of the state's environmental and land policy, because land simultaneously performs the function of a natural resource, and it is an object of property rights and the basis of economic activity. In legal doctrine, land protection is defined as a set of legal, organizational and economic measures aimed at preserving land resources, their rational use, preventing soil degradation processes and restoring damaged areas. Therefore, this category is multifaceted, combining not only legal aspects, but also environmental and socio-economic components. The Constitution of Ukraine in Articles 13 and 14 declares land to be the main national wealth, which is under special protection of the state. This provision lays the legal foundations for ensuring land protection [3]. The details of these principles are reflected in the Land Code of Ukraine (Chapter 26) and the Law of Ukraine "On Land Protection". They establish that land protection includes the following components: preservation of soil fertility, prevention of soil pollution and degradation, restoration and reclamation of damaged areas, as well as creation of conditions for effective and rational use of land resources [4, 5].

From an administrative-legal point of view, land protection is one of the key areas of state administration in the environmental sphere. Its implementation is ensured through specially developed administrative procedures, such as licensing, issuing permits, conducting inspections, imposing regulations and applying administrative penalties. In the legal context, the term "land protection" includes not only general environmental principles, but also specific legal instruments of influence that are mandatory for all subjects of land relations. Land protection as a legal category is based on a number of fundamental principles that determine the essence and strategic guidelines for the development of land legislation. These principles contribute to the harmonization of the economic interests of society, state policy priorities and environmental safety requirements. Among the most important, it is worth highlighting the rational use of natural resources, the priority of national interests and ensuring conditions for sustainable development. Their significance and legal aspects are actively discussed in academic circles, where changes in approaches to land policy in Ukraine are studied, which reflects its gradual evolution. Land protection is based on the principles of rational use of resources, the priority of general public interests, adherence to the principles of sustainable development and the coordination of economic needs with environmental standards. These principles are aimed at ensuring effective and balanced use of land, soil protection, environmental conservation and national natural resources. The permit system is an important tool for administrative and legal regulation of land relations in Ukraine. Environmental permits serve as a regulatory mechanism for controlling activities that can harm the environment. According to the Law of Ukraine "On Environmental Impact Assessment", before starting certain types of activities, it is necessary to obtain a conclusion of environmental impact assessment. This conclusion is the key basis for granting permission for such operations [6]. The process of approving land management projects includes the verification and approval of documents related to the land-use planning and management. Within this framework, an assessment of the compliance of projects with the norms of land and environmental legislation is carried out, taking into account their impact on the environment.

In Ukraine, control and supervision over compliance with land legislation are carried out through a system of state authorities and local self-government bodies, which are endowed with the relevant competencies. According to Article 188 of the Land Code of Ukraine, state control over the proper use and protection of land is carried out by the central executive body responsible for implementing state policy in the field of land relations. In addition, such functions are performed by executive bodies of village, settlement and city councils, which receive relevant powers on the basis of their decisions [4]. The Law of Ukraine "On State Control over the Use and Protection of Lands" dated June 19, 2003 No. 963-IV is a key regulatory legal act in this sphere. It establishes legal, economic and social principles for organizing state control in the field of land use and protection. The main purpose of the law is to introduce measures that contribute to the effective use of natural resources, their restoration and ensuring an adequate level of environmental protection [5]. According to this law, state inspectors for control over land use and protection are authorized to conduct inspections, issue orders, apply administrative penalties and

take other measures to ensure compliance with the requirements of land legislation. To perform their duties, such inspectors must have higher education, experience in the field of land management or law, as well as at least one year of work experience in state supervision (control) bodies in the field of economic activity [4]. Administrative coercion plays a key role in ensuring compliance with the norms of land legislation in Ukraine. This mechanism involves the use of effective measures of influence on violators in order to restore legality, eliminate the damage caused and prevent new violations. The main instruments of administrative coercion include the issuance of orders to eliminate identified violations, the cessation of activities that negatively affect land resources or the ecological system, as well as the imposition of fines for neglecting the requirements of land legislation. According to the provisions of the Code of Ukraine on Administrative Offenses (Articles 52–55, 188-5), administrative penalties perform not only a punitive function, but also play an important role in preventing violations, encouraging land users to comply with legal norms [7]. Public authorities are crucial for ensuring proper management and protection of land resources. The Verkhovna Rada of Ukraine forms the legislative basis in the field of land relations, adopts relevant regulatory legal acts, while the Cabinet of Ministers of Ukraine implements state policy on land resource management, establishes the procedure for exercising control and supervision over their use. The Ministry of Environmental Protection and Natural Resources plays a key role in forming environmental policy, issuing the necessary environmental permits and monitoring their implementation. The State Service of Ukraine for Geodesy, Cartography and Cadastre is engaged in maintaining the land cadastre and the procedure for registering rights to land plots. In turn, the State Ecological Inspectorate carries out state supervision and control over compliance with environmental and land standards. As for the regional level, local governments are responsible for implementing land policy, reviewing and approving land management projects, monitoring local land use, and ensuring compliance with legislation within their competence.

In the field of land relations regulation, in addition to laws, subordinate legislation is used, which details the ways of implementing the provisions established in the legislation. Among such acts, one can single out, in particular, resolutions of the Cabinet of Ministers of Ukraine, orders and decrees of relevant ministries, instructions on maintaining the land cadastre, procedures for approving land management projects, as well as measures to control the efficiency of land resource use. International documents ratified by Ukraine also play a significant role. In particular, the Aarhus Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters establishes standards of transparency, public control and environmental responsibility [8]. European Union directives regulating land protection and a sustainable approach to their use provide for mandatory standards related to soil protection, monitoring of pollution levels, liability for environmental damage and rational management of natural resources [9, 10]. These regulatory documents provide the basis for conducting environmental assessments, strategic land use planning and preventing land degradation processes, contributing to the integration of economic and environmental needs. The incorporation of these directives into the national legal framework of Ukraine contributes to the harmonization of land protection standards with advanced European approaches, the improvement of state control and monitoring mechanisms for the rational use of land resources, and also guarantees the implementation of sustainable development principles in the management system at all levels. In the field of land relations, administrative liability has been introduced for non-compliance with the established rules governing the use and protection of land resources. The main types of violations are enshrined in the articles of the Code of Ukraine on Administrative Offenses (CUaAP). Violation of the rules governing land use that may lead to degradation or pollution (Articles 52–55 of the CUaAP). Unauthorized occupation of land plots and violation of the rights of owners and land users (Article 188-5 of the CUaAP) [7]. Administrative sanctions serve as a key tool of state policy in maintaining law and order and upholding the rule of law. Their role goes beyond the punitive aspect, encompassing the prevention of repeated offenses and the promotion of the restoration of violated social relations. In the research literature and legal acts, three main functions of these sanctions are distinguished: disciplinary, preventive and restorative. Such complexity allows for an effective impact not only on the offender, but also on society as a whole. The disciplinary function consists in holding the offender accountable for the administrative offense committed by applying measures such as a fine, confiscation of property, administrative arrest or deprivation of special rights. Its purpose is to guarantee an adequate response of the state to each offense, to force the offender to realize the consequences of his actions and to demonstrate that non-compliance with the law will not remain without consequences [7, 11]. The preventive function is focused on applying legal measures to the person who committed the offense, in order to prevent new violations in the future and to form a stable desire to comply with the law in other subjects of legal relations. Its implementation is mainly carried out through conviction and punishment. By the nature of the impact, the preventive function is divided into two types: general prevention, which covers

all participants in legal relations, and special (private) prevention, aimed at a specific offender. The restorative function of legal responsibility is aimed at influencing the consciousness and behavior of people, in order to return the legal status of subjects of legal relations to their previous normal state. Its result combines two key aspects: the first is the restoration of law and order, legality and legal relations, the second is the restoration of social relations, social justice and psychological balance in society. The main ways to implement this function are compensation for the damage caused, conviction of the offender and other measures [12].

During the period of martial law in Ukraine, the issue of transferring state and municipal lands to private ownership gained particular importance, especially in view of the changes in legislation aimed at ensuring food security and regulating aspects of land ownership. The focal point of the conflict was the decision of the village council, adopted on July 13, 2022, which provided for the refusal to grant permission to develop a land management project for the free transfer of the relevant land plot to private ownership. The basis for this decision was the amendments to the Land Code of Ukraine dated March 24, 2022 (paragraphs 27-28 of the "Transitional Provisions"), which expressly prohibited local governments from issuing permits for the development of land management documentation for the purpose of the free transfer of state and municipal lands until the end of martial law. Despite this, the court of first instance upheld the claim, although the legislative restrictions clearly formulated a ban on such actions during the specified period. In the field of land relations, administrative liability is provided for failure to comply with the established norms for the use and protection of land resources. The key types of violations are regulated by the articles of the Code of Ukraine on Administrative Offenses (CUaAP). Violation of norms for land use, which may cause their degradation or pollution (Articles 52-55 of the CUaAP). Unauthorized seizure of land plots and violation of the rights of owners and land users (Article 188-5 of the CUaAP) [7]. Varkhov A. G.'s research is devoted to the analysis of the effectiveness of interaction between authorities and civil society in the context of monitoring their activities. The author emphasizes that the existing supervision mechanisms are mostly formal in nature and are unable to properly counteract violations [13]. This problem is widely discussed in scientific works, which emphasize attention to the problems of administrative and legal instruments and propose ways to modernize them taking into account international standards of efficiency. Among the main areas of improvement of the administrative-legal mechanism, it is worth highlighting harmonization with the norms of the legislation of the European Union, which contributes to the integration of national legislation into the global regulatory framework. The process of digitization of the land cadastre is especially important, which allows increasing the openness and speed of land management. In addition, it is necessary to strengthen the effectiveness of public oversight, because it plays a decisive role in preventing violations of the law and increasing the responsibility of state authorities. The issue of improving the system of administrative responsibility, which is designed to ensure clear regulation, eliminate functional redundancy and enhance the effectiveness of sanctioning mechanisms, also remains relevant.

Conclusion. The study examines the essence of land protection as a legal feature and its role in the system of environmental and land law. The key principles of land protection are identified, which include the rational use of resources, the priority of the national interest, ensuring sustainable growth and the coordination of economic and environmental needs. The effectiveness of land protection is possible only under conditions of proper legal regulation, in particular through the use of administrative and legal mechanisms. The main attention is paid to the analysis of administrative influence, which includes the permit system (granting environmental permits, coordinating land management projects, environmental impact analysis), control and supervision mechanisms, as well as administrative coercion measures (issuing regulations, banning activities, imposing fines). The powers of state authorities are considered - the Verkhovna Rada, the Cabinet of Ministers, the Ministry of Environmental Protection and Natural Resources of Ukraine, the State Service for Geodesy, Cartography and Cadastre, the State Environmental Inspectorate and local governments. The study analyzed the legal framework for land protection, which includes the Constitution of Ukraine, the Land Code, the laws "On Land Protection" and "On State Control over the Use and Protection of Lands", as well as subordinate legislation and international documents, in particular the Aarhus Convention and EU directives. Administrative liability for violations of land legislation was considered (in particular, Articles 52-55, 188-5 of the Code of Administrative Offenses), focusing on the multifunctionality of administrative penalties: disciplinary, preventive and restorative. In this context, examples from the judicial practice of the Supreme Court are provided. The main problems in the field of law enforcement were identified: duplication of functions of government bodies, insufficient effectiveness of control mechanisms, a formal approach to the application of sanctions, as well as a low level of implementation of regulatory requirements. It was recommended to improve the administrative-legal mechanism by harmonizing legislation with

European standards, introducing digital solutions for the land cadastre, increasing the role of public control and simplifying the system of administrative liability. Administrative and legal regulation of land protection in Ukraine is a critical element of protecting national wealth, ensuring environmental safety and promoting sustainable development. Further improvement of this mechanism will be a guarantee of preserving natural resources for present and future generations and will contribute to Ukraine's integration into the European legal space.

REFERENCES:

1. Zalevsky V.E. The sphere of land relations as a component of the subject of administrative and legal regulation. *Journal of the Kyiv University of Law*. No. 4. 2019. P. 283–289. URL: <https://chasprava.com.ua/index.php/journal/article/view/154/142>.
2. Zapototska O.V., Pustovit Y.Y. Peculiarities of the characteristics of land legal relations within the framework of their administrative and legal regulation. *Scientific Bulletin of the Uzhhorod National University. Series «Law»*. 2024. Issue 84, part 3, pp. 102–107. URL: <http://visnyk-pravo.uzhnu.edu.ua/article/view/312487/303472>.
3. Constitution of Ukraine: Law of Ukraine of June 28, 1996 No. 254k/96-VR. Proceedings of the Verkhovna Rada of Ukraine. 1996. URL: <https://zakon.rada.gov.ua/laws/show/254%D0%BA/96%D0%B2%D1%80#Text>.
4. Land Code of Ukraine: Law of Ukraine dated October 25, 2001 No. 2768-III. Proceedings of the Verkhovna Rada of Ukraine. URL: <https://zakon.rada.gov.ua/laws/show/2768-14#Text>.
5. On land protection: Law of Ukraine of June 19, 2003 No. 962-IV. Proceedings of the Verkhovna Rada of Ukraine. URL: <https://zakon.rada.gov.ua/laws/show/962-15#Text>.
6. State Environmental Inspectorate in Volyn Oblast. (2023). Methodological recommendations for exercising control over the use and protection of land and subsoil, preventing unauthorized mining. URL: https://www.voln.dei.gov.ua/post/483?utm_source.
7. Code of Ukraine on Administrative Offenses. Law of Ukraine dated December 17, 1984 No. 8073-X. Bulletin of the Verkhovna Rada of Ukraine. URL: <https://zakon.rada.gov.ua/laws/show/80731-10#Text>.
8. Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (Aarhus Convention). (1998). URL: https://zakon.rada.gov.ua/laws/show/994_015#Text.
9. Directive 2004/35/EC of the European Parliament and of the Council of 21 April 2004 on environmental liability with regard to the prevention and remedying of environmental damage. URL: <https://eur-lex.europa.eu/eli/dir/2004/35/oj/eng?utm>.
10. Directive 2006/118/EC of the European Parliament and of the Council of 12 December 2006 on the protection of groundwater against pollution and deterioration. URL: <https://eur-lex.europa.eu/legal-content/EN/TXT/uri=CELEX%3A32006L0118>.
11. Vinnytsia Regional Military Administration. Administrative penalties: types and general rules for imposing administrative penalties, terms for imposing administrative penalties. URL: <https://vin.gov.ua/departament-pravovoho-zabezpechennia-oblderzhadministratsii/71787-administratyvne-stiahnennia>.
12. Digest of Supreme Court Case Law in War-Related Cases (February 2022 – September 2024). p. 97–98. URL: https://supreme.court.gov.ua/userfiles/media/new_folder_for_uploads/supreme/ogliady/Daigest_sud_prakt_VS_spravi_vijna.pdf.
13. Varkhov A.G. Mechanisms of supervision and interaction between government bodies and civil society: author's abstract. dissertation. candidate of sciences: 12.00.01. Kropyvnytskyi, 2023, p. 226. URL: https://cusu.edu.ua/images/autoreferats/2023/Varhov/Diss_%D0%92%D0%B0%D1%80%D1%85%D0%BE%D0%B2_%D0%90._%D0%93._1.pdf.