

**ANALYSIS OF JUDICIAL PRACTICE IN CASES OF ADMINISTRATIVE OFFENSES
IN THE SPHERE OF LAND RELATIONS OF UKRAINE****АНАЛІЗ СУДОВОЇ ПРАКТИКИ У СПРАВАХ ПРО АДМІНІСТРАТИВНІ
ПРАВОПОРУШЕННЯ У СФЕРІ ЗЕМЕЛЬНИХ ВІДНОСИН УКРАЇНИ**

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This article considers the issue of committing administrative offenses in the field of land relations, as well as a detailed analysis of the peculiarities of judicial practice in Ukraine. The procedure for bringing to administrative responsibility for violations of land legislation and the powers of bodies authorized to draw up protocols and consider such cases were also examined. Current judicial practice was reviewed, and problematic aspects of law enforcement were identified, in particular, the uneven approach of courts to imposing administrative penalties, which reduces the effectiveness of combating such administrative offenses.

Particular attention was focused on proposing ways to improve legislation and increase the efficiency of administrative responsibility in the field of land relations. Land legislation was recognized as an independent branch of Ukrainian legislation, which is a system of regulatory and legal norms that regulate social relations in the field of land affairs. Modern land legislation began its formation in the 1990s, in order to redistribute land with its transfer to private and collective ownership, as well as to grant the right of use to enterprises, organizations and institutions, in order to create equal conditions for the development of various forms of management. The formation of the above-mentioned legislation was based on the Land Code of Ukraine and the Resolution of the Verkhovna Rada of Ukraine of December 18, 1990. Later, an updated Land Code was adopted (Law of Ukraine of March 13, 1992 No. 2196-XII). Its tasks were to protect the rights and freedoms of citizens, institutions, organizations, and enterprises on land, prohibit discrimination against one form of land ownership and management, and create conditions for the rational use and protection of land.

The reason for creating a more advanced system of protection and legality of land relations was Article 14 of the Constitution of Ukraine, which states that land is the main national wealth and is under the protection of the state.

A special emphasis was placed on the characteristics of the most common offenses: destruction of boundary signs, unauthorized occupation of land plots, violation of deadlines for the return of temporarily occupied lands or failure to fulfill obligations to bring them into a condition suitable for intended use, failure to comply with the requirements of the state land cadastre, etc.

This article also analyzed in detail the competence and system of the State Geocadastre, local government bodies, and courts in the process of bringing violators to administrative responsibility. It was proposed to create new regulatory documents that would significantly better apply methods of influencing violators in the field of land legislation.

Key words: Land Code, administrative offenses in the field of land legislation, State Geocadastre, land relations, court decisions, analysis of Ukrainian judicial practice, problems of law enforcement against violators, regulatory and legal regulation, Supreme Court, land rights, proposals for improving the judicial system.

У статті розглянуто питання щодо вчинення адміністративних правопорушень у сфері земельних відносин, а також детальний аналіз особливостей судової практики України. Також досліджено порядок притягнення до адміністративної відповідальності за порушення земельного законодавства та повноваження органів, які наділені правом складати протоколи та розглядати такі справи. Було розглянуто актуальну судову практику, виявлено проблемні аспекти правозастосування, зокрема неоднаковий підхід судів до накладення адміністративних стягнень, що зменшують результативність боротьби із такими адміністративними правопорушеннями.

Окрему увагу було зосереджено на пропозиції шляхів удосконалення законодавства та підвищенню ефективності адміністративної відповідальності у сфері земельних відносин.

Земельне законодавство було визнане самостійною галуззю законодавства України, що являє собою систему нормативно-правових норм, які регулюють суспільні відносини у сфері земельних справ. Сучасне земельне законодавство почало своє формування у 90-х роках минулого століття, для того, щоб відбувся перерозподіл земель з передачею їх у приватну та колективну власність, а також надання права користування підприємствам, організаціям та установам, з метою створення рівних умов розвитку різних форм господарювання. В основу формування зазначеного вище законодавства лягли Земельний кодекс України та Постанова Верховної Ради України від 18 грудня 1990 року. А пізніше вже було ухвалено оновлений Земельний кодекс (Закон України від 13 березня 1992 р. №2196-XII). Його завданнями були охорона прав і свобод громадян установ, організацій і підприємств на землю, заборона дискримінації однієї з форм власності і господарювання, а також створення умов для раціонального використання та охорони земель.

Приводом для створення більш удосконаленої системи охорони та законності земельних відносин стала ст. 14 Конституції України, де йдеться про те, що земля є основним національним багатством та знаходиться під охороною держави.

Окремий акцент було зроблено на характеристиці найбільш поширених правопорушень: знищення межових знаків, самовільне зайняття земельних ділянок, порушення строків повернення тимчасово займаних земель або невиконання обов'язків щодо приведення їх у стан, придатний для використання за призначенням, недотримання вимог державного земельного кадастру тощо.

Також у цій статті було детально проаналізовано компетенцію та систему органів Держгеокадастру, органів місцевого самоврядування та судів у процесі притягнення порушників до адміністративної відповідальності. Було запропоновано створення нових нормативних документів, в яких буде значно краще застосовано методи впливу на порушників у сфері земельного законодавства.

Ключові слова: Земельний кодекс, адміністративні правопорушення у сфері земельного законодавства, Держгеокадастр, земельні відносини, судові рішення, аналіз судової практики України, проблеми правозастосування до порушників, нормативно-правове регулювання, Верховний Суд, право на землю, пропозиції вдосконалення судової системи.

Problem Statement. The sphere of land relations in Ukraine is one of the main ones that ensures economic development and guarantees citizens' rights to land. However, according to statistics, a large number of administrative offenses indicates the presence of problems in law enforcement, which are repeated systematically. Current legislation cannot always distinguish between administrative offenses in land-related matters, which significantly complicates the work of regulatory bodies and courts. Having analyzed the judicial practice, we can conclude that the norms of the Code of Ukraine on Administrative Offenses and the Land Code are applied differently, and therefore this leads to different legal consequences in such cases. This moment can significantly reduce the level of legal certainty and the effectiveness of bringing violators to administrative responsibility. In accordance with all of the above, it can be understood that there is a need for a systematic analysis of judicial practice, identifying gaps in legal regulation, as well as making proposals for its improvement.

Research objective. To analyze in detail the Ukrainian judicial practice in cases of administrative offenses in the field of land relations in order to identify the main aspirations of the courts when considering cases of this category, to determine the reasons for the unequal application of the norms of the Code of Ukraine on Administrative Offenses and land legislation, to identify typical errors, gaps and conflicts in law enforcement, to assess the effectiveness of existing legal mechanisms for bringing perpetrators to administrative responsibility, and to make and scientifically substantiate proposals for improving legal regulation and ensuring the unity of judicial practice.

State of scientific research on the issue. The analysis of judicial practice in cases of administrative violations in the field of land relations has been carried out more than once by more than one specialist, in particular, Pavlo and Alena Pryguza studied the issue of the problems of renewal of the right to lease land in the legislation and judicial practice of Ukraine. The Supreme Court has also formed a considerable number of conclusions in the field of land relations. The well-known lawyer and independent monitoring expert Kateryna Zhabotynska also studied the issue related to analysis of the state of corruption in the field of land relations. However, the subject of research is developing rapidly and therefore requires additional study, for which purpose this article was written.

Outline of the main material. According to Article 13 of the Constitution of Ukraine, state authorities and local self-government bodies exercise the rights of the owner on behalf of the Ukrainian people within the limits defined by the Constitution of Ukraine [1]. This Article, as well as other regulatory legal acts, regulate relations in the field of land affairs. The legislation has established a special procedure for resolving land disputes, while entities have the right to go to court, to challenge the actions or inaction of state authorities or local self-government bodies. All land disputes can be divided into 4 types:

- 1) disputes related to matters of ownership, disposal and use of land plots;
- 2) administrative-territorial disputes regarding the delimitation of territories, villages, settlements, districts, regions and cities;
- 3) disputes that arise due to the boundaries of land plots, violation of the rules of good neighborliness, as well as the establishment of restrictions on the use of land;
- 4) other disputes that are related to land relations. It is important to point out that when generalizing judicial prac-

tice, we can conclude that courts do not always apply special legislation to land relations when resolving disputes, which subsequently leads to incorrect reasoning and conclusions in court decisions.

A specific analysis of judicial practice should begin with the legal conclusions of the Supreme Court in land disputes. Judge Yan Bernazyuk, during his presentation in the Cassation Administrative Court, spoke about the legal positions of the CAS of the Supreme Court within legal land relations. He drew attention to the Supreme Court's resolution of March 19, 2025 in case No. 852/2a-6/24, which concerns the forced seizure of a land plot [2] for reasons of public necessity: placement and maintenance of facilities and sanitary protection zones related to the extraction of minerals of national importance. The court denied the plaintiff's claims, because according to the decision of the Third Administrative Court of Appeal, the plaintiff did not comply with the procedure established by law for the redemption of the land plot and residential building, because, as the court noted, the defendant was not offered an alternative to housing. It was also decided that the plaintiff is the legal heir even in the absence of a certificate of inheritance, because the inheritance was accepted in fact [3]. After analyzing this resolution, it was concluded that the decision of the Supreme Court is absolutely legitimate and fair. Because if it is necessary to forcibly seize property or land, it is necessary to observe the human rights to private property in order to avoid arbitrariness and injustice. In this case, the defendant was not even offered alternative housing or compensation. Also, according to the Constitution of Ukraine, interference with private property must be thoroughly justified and supported by all necessary guarantees.

Having considered the second court case of the Kyiv-Svyatoshynskyi District Court No. 107985937 dated 12.10.2022, which concerns a statement of claim, where the plaintiff applied to the State Administration of the State Geocadastr in the Kyiv region with a question of providing documentation regarding the registration of a land plot. Her claim was rejected on the grounds that the land plot was not registered in her name as the owner of the property and was transferred to another individual. Following a prolonged judicial process, the plaintiff's claim was satisfied, and the ownership of the land plot by another person was annulled [4]. The court approached this case quite formally, because the residential building and the land plot are the only object of use. Article 120 of the Land Code of Ukraine establishes that an individual who acquires ownership of a residential property is also entitled to the use of the land plot on which it is located [5]. This is a fairly weighty argument in favor of the plaintiff. But on the other hand, the plaintiff did not register the separate right of ownership to the land in time, although she should have. That is why at the time of the village council's decision was issued, her right to the land did not officially exist [6]. But if we consider another option for resolving the case, the plaintiff can file an appeal and rely on Article 120 of the Land Code of Ukraine, as well as emphasize the practice of the Supreme Court, which has repeatedly stated that the transfer of the right to housing entails the right to land. In this case, the plaintiff has high chances in the appeal.

The Supreme Court Resolution No. 592/10260/16 also cannot be ignored, because the relevance of this topic in the modern world impresses even the most experienced specialists. In this case, a dispute arose between the plaintiff, who applied to the Sumy City Council in order to exercise his right to private property in relation to a land plot that is under his

share of the property, after which the Megapolis PE decided to establish the boundaries of this plot. The court dismissed the plaintiff's claim on the grounds that the submitted documents did not comply with the statutory requirements [7]. Having studied this resolution in detail, we can conclude that the right to ownership of land is possible only under the conditions of compliance with all the requirements of the land legislation, therefore, the refusal of the local government body to satisfy this claim is quite legitimate. But on the other hand, this case reveals gaps in the interaction of citizens with the authorities, when due to formal shortcomings in the documents, the implementation of the right to land is actually blocked. If one looks closely, the city council acted within its competence, but such cases often turn into administrative barriers that do not protect the rights of citizens, but only complicate the situation. Especially when it comes to land plots already under existing property, because the owner is given the advantage of registering the land as his private property.

Courts in cases of administrative offenses in the field of land relations are guided by the principle of ensuring legality and justice, i.e. the correct application of the norms of the Code of Administrative Offenses and the norms of land legislation to specific situations; compliance with the requirements of rational land use; and protection of the rights and legitimate interests of users or owners, i.e. the prohibition of sanctions without grounds. The courts also aim to rely on the positions of the Supreme Court, for consistency of decisions, which forms the unity of law enforcement [8]. Regarding the reasons for the uneven application of the norms of the Code of Administrative Offenses and land legislation, one can single out its frequent change or update. This means the addition, change or obsolescence of the norms of the Land Code or laws. After all, judicial practice needs time to adapt in order to function properly. This is evidenced by the speeches of the judges of the Supreme Court [9]. There is also ambiguity in the application of norms. It is often possible to notice cases when disputes are not clearly classified as administrative or civil cases, most often when it comes to ownership or the status of the right of use.

Having carefully examined all the issues specified in the research objective, it can be seen that there are a number of problems that reduce the effectiveness of legal mechanisms in bringing offenders to administrative liability. First, conducting inspections, drawing up protocols, transferring to court - all this takes time, and also the deadlines for filing a claim may not be observed by state bodies, which complicates the process of bringing offenders to justice. Second, when analyzing judicial practice, it was noted that state bodies are not sufficiently aware of their rights and obligations, which also reduces the effectiveness of bringing offenders to justice. Third, the presence of a corruption component in the consideration of cases in court. To resolve these issues, it is first and foremost necessary to strengthen sanctions against offenders, since the majority of administrative penalties are insufficiently severe and do not have sufficient impact on the guilty, especially if the amount that a person will receive in the event of this violation is much larger. If we analyze the Code of Administrative Offenses (Articles 53-56) [11],

we can find only a few fragments related to the land sector, and most of them are in other codes and laws - this point suggests that the systematization and codification of administrative offenses is necessary. Also, information on land cases is scattered across various sources, which significantly complicates work with this category of disputes. Therefore, it is necessary to create a database with all information on land relations available to all citizens of Ukraine, which will significantly reduce the number of inconsistent decisions.

Along with the shortcomings of legal regulation, structural and functional shortcomings of sectoral management are evident, in particular, ineffective interaction, lack of inter-sectoral and inter-regional coordination, the embryonic state of public control, insufficient financing, organizational shortcomings, and weak material and technical support. Not being adapted to socio-economic realities, the land management system has largely exhausted its potential and ability for self-development [11, p. 87].

Conclusion. Having analyzed the judicial practice within cases of administrative offenses in the field of land relations, many conclusions were made regarding the competences of the work of judicial and state bodies. In particular, the Supreme Court and lower courts in cases of forced seizure of property are obliged to offer an alternative to housing or fair monetary compensation to a person, even in cases of public necessity. Also, cases must be properly drawn up, because, as practice shows, the lack of proper preparation of documents prevents citizens from effectively exercising their rights to land. Also, Article 120 of the Land Code of Ukraine states that the right to a house entails the right to a land plot, and in practice, as we see, there are discrepancies between the norms of legislation and court decisions, which ultimately leads to different solutions in identical cases (Kyiv-Svyatoshynskyi District Court and case No. 592/10260/16). The analysis shows that in most cases, lower courts try to be guided by the decisions and legal opinions of the Supreme Court. This is a good sign, as it forms the unity of application of administrative norms and norms of land legislation, which increases the predictability of decisions for citizens and trust in judicial bodies. Regarding the problems, as noted in this article, the most common are the frequent changes in the norms of land legislation, their disorganization between different codes and laws, as well as a lack of adequate understanding by governmental bodies of their rights and duties results in adverse outcomes, including inconsistent application of legal norms and protracted case proceedings. This work also described ways to increase the efficiency of the work of judicial bodies and influence on violators of legal norms. First, it is necessary to increase sanctions in the field of land relations, in order to better influence citizens. Secondly, the components of administrative offenses should be systematized and codified. Thirdly, in order for the judicial system to work better, it is necessary to create a single database accessible to all citizens, which will contain all information on land relations. And, fourthly, paying attention to regular training of officials involved in the implementation of control in land legislation will also increase the efficiency of the work of judicial bodies and significantly minimize the problems that have been revealed in this work.

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