

LAND INVENTORY AS THE INSTRUMENT FOR DEVELOPMENT OF AMALGAMATED TERRITORIAL COMMUNITIES IN UKRAINE

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ABSTRACT

The scientific article reveals peculiarities of the new administrative-territorial organization under conditions of decentralization of power in Ukraine, highlights the main stages of establishment of amalgamated territorial communities, conditions of the existing and future formation of them. It is argued that efficient development of corresponding territories requires financial decentralization and cession of agricultural land parcels of state ownership to communal holding.

The research presents an algorithm of cession of agricultural lands of state ownership to communal possessing by corresponding amalgamated territorial communities. Such step will supply formation of clear and transparent revenue of local budgets in terms of payment for lands and will stimulate economic development of amalgamated territorial communities.

It is confirmed that inventory of land should become one of the key instruments of the further development of amalgamated territorial communities, because cession of state-owned agricultural land parcels to communal possessing by corresponding communities will secure improvement of economic development of the amalgamated territorial communities, as well as will attract investments.

Keywords: land inventory, amalgamated territorial communities, decentralization, agricultural lands.

INTRODUCTION

Nowadays, Ukraine greatly focuses its efforts on implementation of the European-integration course, performance of international-legislative obligations, including the issues of development of local and regional democracy.

The further democratization of the society and decentralization of power on the fundamentals of subsidiarity have been and stay to be the priorities in Ukraine. In the processes, an important position is occupied by reforming of local government and territorial organization of power.

European integration processes of Ukraine are closely connected with internal ones, which outline modern policy of the country development, its focus on decentralization of territorial units, which can secure national interests. (Стегней, 2014).

The reform concerning decentralization of power is surely one of the most important reforms, initiated in Ukraine in the recent period. Currently the earlier amalgamated territorial communities, having started their activity, face the first challenges. It is necessary to organize management of the available resources, secure needs and sustainable development of the communities (Олуйко, 2017).

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The administrative-territorial reform and formation of a new land order in Ukraine have substantially improved political, economic and social value of land resources. Land performs the function of the main fixed assets of agricultural production and forestry as well as a real estate object in the national economy. It is one of the important resources and factors of functioning of the economy of amalgamated territorial communities under current conditions (Третяк, 2009).

Implementation of the reforming processes in self-government and decentralization opens new opportunities of management and influence for the communities, because practical implementation of the principle of ubiquity of local government will lay the responsibility for their development at the door of the communities' leaders. Previously, competence of the communities was limited by the boundaries of settlements. Nowadays, it is practically spread over 100% of the country's territory (Васильченко та ін., 2015).

New-established communities face a complicated situation concerning employment of land and other natural resources. It first deals with almost complete lack of information about the right for land and other natural resources, their potential and conditions of use.

Implementation of the obtained power responsibilities by an amalgamated territorial community is impossible without inventory of its land resources. The process of establishment of an amalgamated territorial community expects the community to be in command of all lands of village, settlements and town councils, which are in its structure. Considering the fact that land resources make a territorial basis for human activity, its economic ground and are an important source of its budget filling, it is greatly important for Ukraine to use an inventory mechanism for its development.

Actuality of the issue is forced by the problem of incomplete and incorrect information about a great number of land parcels in the system of the state land cadaster. Thus, as of the end of 2017, the land cadaster had available geo-spatial information only about 73% of land parcels of the country. Low quality of land-cadaster works has caused that numerous land parcels are registered in the state land cadaster with different errors, starting from incorrect codes of intended use and up to incorrect fixing of boundaries.

Thus, land inventory is an important source to gain complete, objective and relevant information about land parcels and their right. It gives an opportunity to determine the lands, possessed by the territorial community and the way to use the resource with the maximum possible benefit for its development.

MATERIALS AND METHODS

The aim of the scientific research is to analyze the influence of land inventory on development of amalgamated territorial communities under conditions of power decentralization.

To solve the set problems the research used the monographic method to review the relevant literature as well as the laws and program documents that regulate rural development in Ukraine (Kuryltsiv and Kryshenyk, 2018). Methodological basis for the theoretical and empirical levels of the research consists of a set of methods, including monographic, induction and deduction, system analysis, and cartographic methodology (Kuryltsiv et al., 2018).

In the process of the research the authors of the article used the scientific works, devoted to the issues of administrative-territorial reforms, establishment of amalgamated territorial communities, performance of land inventory, as well as regulatory base of Ukraine, statistical data of the State Office of Ukraine on the issues of geodesy, cartography and cadaster, documentation concerning land organization.

The scientific research describes the process of establishment of amalgamated territorial communities under conditions of decentralization of power in Ukraine, presents an algorithm of obtaining of agricultural lands outside settlements into communal holding by the communities (see: Fig. 2).

Proposed algorithm includes land inventory, which should become one of the key factors of the further development of amalgamated territorial communities, because cession of state-owned agricultural land parcels to communal possessing by corresponding communities enables increase of revenues to local budgets, particularly by payment for land.

For practical demonstration of the research results, the authors of the article use visual (graphical) methods, which supply a synthesized idea about the studied object and presents its components, their spe-

cific weight, cause and effect relations, intensity of the components distribution in the defined volume, as well as abstract and logical method, which is used for generalization and conclusions making. The visualization was made by means of Digital'18 software.

DISCUSSION AND RESULTS

Establishment of amalgamated territorial communities under conditions of decentralization of power

Ukraine has approved constitutional fundamentals of local governing, ratified the European Charter of local government and adopted a set of basic regulatory acts, supplying legal and financial fundamentals for activity of the bodies of local government. However, development of local government is actually performed at the level of territorial communities of the cities of regional subordination, because most of the territorial communities are incapable to take the responsibilities of the bodies of local government due to their parceling and extremely weak material and financial base. (Про схвалення Концепції... 2014).

The most expected results of decentralization process in Ukraine are the following: establishment of capable self-sufficient territorial communities, possessing appropriate material, financial, land resources, objects of social infrastructure, which are necessary to improve satisfaction of citizens' needs, operative and qualitative supply of basic social and administrative services, creation of the conditions for sustainable development of corresponding territories, more efficient use of budget costs (Дрешпак та Липовська, 2015).

At the stage of establishment, an amalgamated territorial communities faces numerous challenges, including:

- lack of generally approved priorities concerning supply of basic services for residents of the amalgamated territorial community (ATC). Each body of local government, which is included in the structure of the ATC, has its personal priorities of development and personal values concerning resource management;
- a need for efficient management of new land and budget resources, which are available for an ATC and can be used for its development;

- rise of the number of interested parties, which are to be agreed in the process of decision making within an ATC (Методологія стратегічного планування ...).

Thus, the urgent task on the way of reforming of local government is to perform financial decentralization, which started with approval of the changes to the Budget and Taxation Codes of Ukraine, particularly supply of additional budget responsibilities and permanent sources of income for their implementation to the bodies of local government; stimulation of territorial communities to consolidate and move to direct inter-budget relations with the state budget with appropriate resource supply at the level of cities of regional subordination, etc. (see: Table 1).

Financial decentralization has essentially improved the resource base of local budgets and supplied preconditions for activation of the process of amalgamation of territorial communities. To introduce legal fundamentals for establishment of capable territorial communities by means of increase of their financial and economic capability, the state approved the Law of Ukraine № 157-VII «About voluntary amalgamation of territorial communities» in February 2015. Particularly, the Law defines the main conditions for amalgamation of territorial communities of villages, settlements, towns. They are:

- 1) an ATC cannot include any other territorial community with its representative body of local government in its structure,
- 2) territory of an amalgamated community has to be non-parceled, boundaries of the ATC are determined by external boundaries of the competence of councils of the territorial communities, which have amalgamated,
- 3) an ATC has to be located within the boundaries of the territory of one region,
- 4) making decision about voluntary amalgamation of territorial communities one should consider historical, natural, ethnic, cultural and other factors, influencing social-economic development of the ATC,
- 5) quality and availability of public services, which are supplied by the ATC, cannot be lower than before the amalgamation (Про добровільне об'єднання ... 2015).

The defined legislation acts secured the bodies of local authorities to develop and approve Prospective

Table 1. Required amount of main taxes and charges to be transferred to local budgets, in %*

Taxes and charges	Regional budgets	Amalgamated communities, towns of regional significance	District budgets	Villages, settlements, towns of district significance
Personal income tax	15	60	60	–
Rental charge for the use of water and forest resources; subsoil use for extraction of national minerals	50/25	–	–	–
Payment for the use of other natural resources	100	–	–	–
Rental charge for special use of natural and subsoil resources of local significance	–	100		100
Administrative charge for state registration of entities and persons	–	100	100	
Administrative charge for state registration of real estate rights and encumbrances	–	100	100	100
Local taxes: single tax; property tax (land fee, real estate tax, transport tax)	–	100	–	100
Pollution tax	55	25		25
Revenues from reimbursement of losses in agriculture and forestry	25	75	15	60
Money penalties for the harm, caused by violation of the legislature concerning environmental protection due to economic and other activity	20	50	–	50
Costs from sale of non-agricultural lands of the state holding	–	90	–	90
Costs from sale of non-agricultural lands of communal holding	–	100		100

* Source: completed by the authors on the base of Budget Code of Ukraine

plans of establishment of capable territorial communities of corresponding regions and submit them to approval by the Government. Thus, in November 2015, the Cabinet of Ministers of Ukraine adopted the Prospective plans of establishment of territorial communities of 23 (among the 24) regions of Ukraine (but Transcarpathian region). It secured initiation of formation of a local government of a capable basic level.

According to the data of the Monitoring of the process of decentralization of power and reforming of local government, as of early March 2018, there were 725 amalgamated territorial communities. They

included 3372 former local councils, occupying 178,6 thousand square kilometers or 31% of the total area of the country with 6,3 million residents on it, which constitutes 14,9 % of the total population of the state (Monitoring of the process ... 2018). In the future, it is planned to establish another 1188 amalgamated territorial communities, which include 7753 former territorial communities of villages, settlements and towns (see: Fig. 1).

Nowadays, amalgamated territorial communities manage their lands only within the boundaries of settlements. The land, which is outside the boundaries, is managed by the state, although it should belong to the

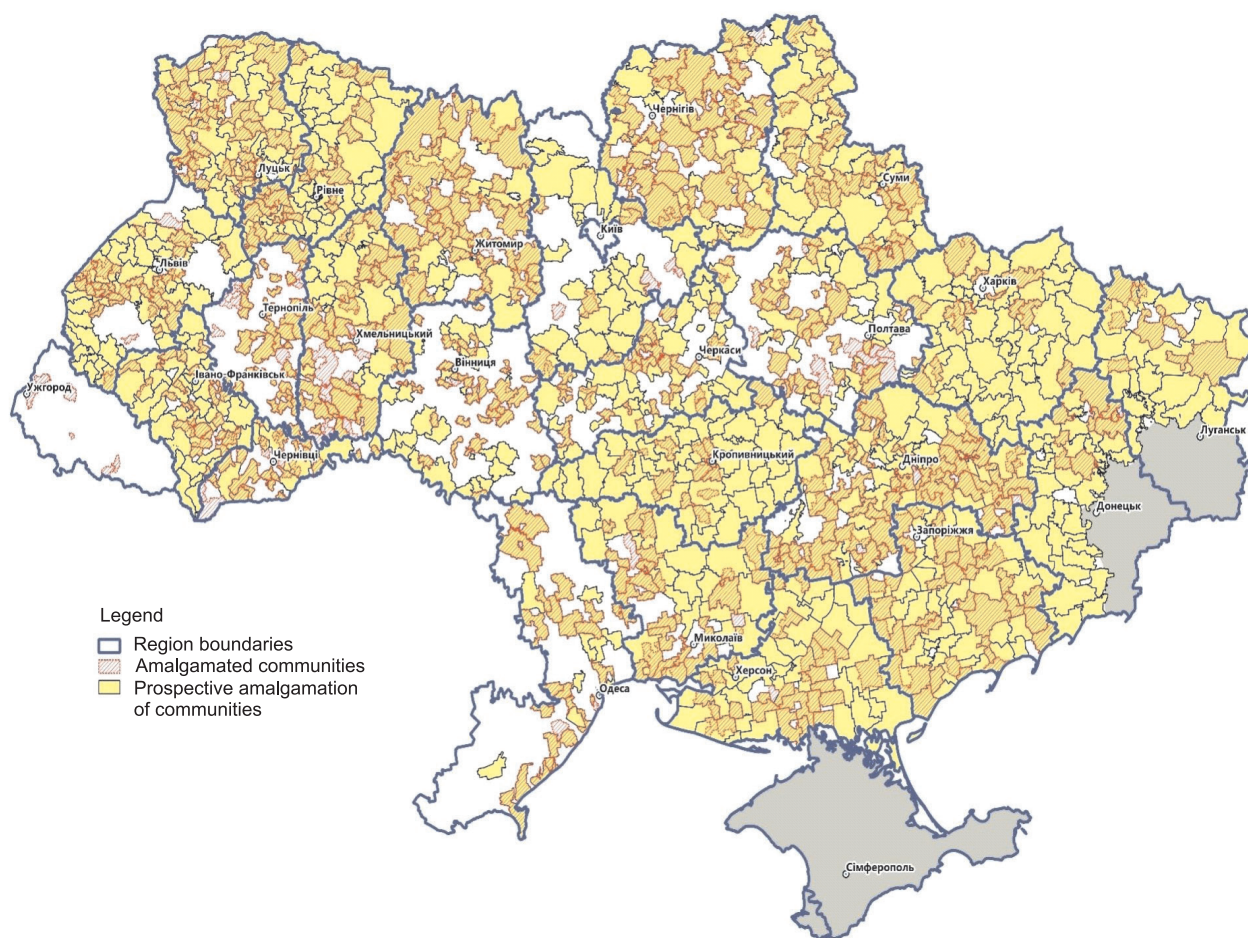


Fig. 1. Visualization of the existing and prospective conditions of amalgamated territorial communities*

* Source: geo-portal of the administrative-territorial organization of Ukraine Геопортал адміністративно-територіального ...

community. Thus, currently there is an urgent need to submit those lands to the disposal by the amalgamated communities.

The process was initiated on January 31, 2018 with approval of the Governmental Resolution «About cession of agricultural land parcels to communal holding by amalgamated territorial communities». According to the Resolution, starting from February 1, 2018, the State Service of Ukraine on the issues of geodesy, cartography and cadaster (State Geocadaster) should secure:

- formation of state-owned agricultural land parcels within the boundaries, determined by a perspective plan of formation of the territories of communities, by means of inventory of state-

owned agricultural lands with the further cession of the marked land parcels to communal holding by corresponding amalgamated territorial communities;

- cession of state-owned agricultural land parcels, included into the list of state-owned land parcels with the ownership rights being disposed to land trades, to communal holding by amalgamated territorial communities after manifestation of the results of the land trades and signing of the agreement for lease of such land parcels;
- control for the state-owned agricultural lands while transferring to use (only by means of auctions) or to holding under agreement with amalgamated ter-

ritorial communities before cession of the state-owned agricultural land parcels to communal holding (Розпорядження Кабінету міністрів ... 2018).

Cession of lands to amalgamated communities will be made according to the following algorithm: first – a claim of a community to Regional Department of the State Geocadaster concerning inventory of the lands, which were not earlier in use; second – performance of the inventory; third – registration in the land cadaster and fourth – the very procedure of cession with the following registration of ownership right (see: Fig. 2).

Thus, in Ukraine there is an initiated process of cession of the land outside the boundaries of settlements to holding by amalgamated territorial communities. According to the «Scheme-diagram of cession of land

parcels to amalgamated territorial communities», approved by the State Geocadaster, the first cession of state-owned agricultural lands to communal holding happens in March 2018. This year it is expected to make cession of 759 thousand ha of agricultural lands to amalgamated communities, but the lands, which are employed by state enterprises.

We can see that cession of land to holding by amalgamated territorial communities happens on the claim base. It means that the procedure starts with submitting of an application to the appropriate regional department and is completed only after formation and registration of all agricultural land parcels in the state land cadaster. Nowadays, in Ukraine none amalgamated territorial community has 100-percent cadastral fabric. In the process, the key position is occupied by land inventory.

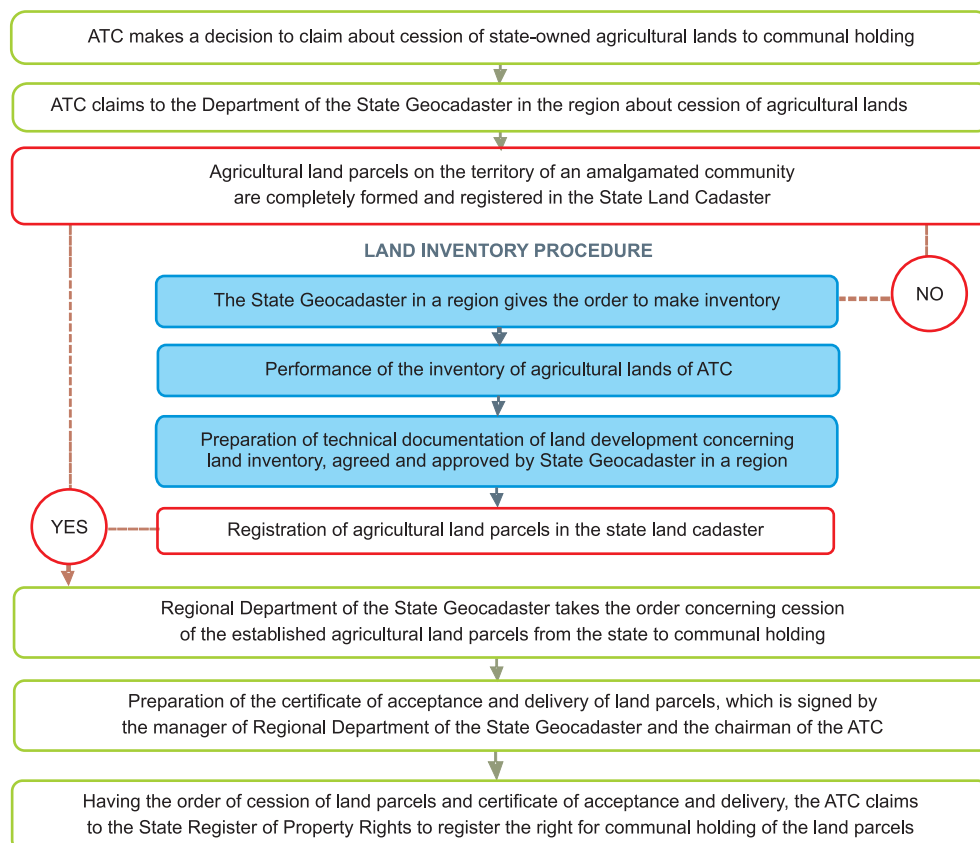


Fig. 2. The algorithm of cession of agricultural lands outside the settlement into communal holding of amalgamated territorial communities*

* Source: developed by the authors

Land inventory as an instrument of development of amalgamated territorial communities

Land inventory expects determination of the location of land surveying objects, their boundaries, sizes, legal status, detection of the lands, which are not used or irrationally used, violating their intended use, specification and conservation of degraded agricultural lands and polluted lands; determination of quantitative and qualitative characteristics of land, required for maintenance of the state land cadaster.

Performance of such works will introduce order in the field of land relations and create an efficient instrument of control for changes, happening to land resources, will secure relevance of the information about the legal status of use of land parcels and subjects of land relations. The information will specify the address focus in the process of performance of environmental measures and personify responsibility for the land parcels use with violation of their intended use or legislature. Besides, the land inventory will secure the most efficient use of lands and create favorable conditions for development of transparent land market.

Land inventory of all categories of lands is defined as one of the key tasks of the land reform in Ukraine. Performance of the task supplies the necessary information for the bodies of local government and executive power in order to secure efficient use and management of land resources. The bodies are responsible for implementation of the state policy in the field of use and protection of lands. However, poor organization of the process by local councils of all levels, being responsible for performance of the task, as well as improper financing, have caused the situation when the land inventory is currently not performed on a full scale.

According to the data of the State Geocadaster, as of May 1, 2015, in Ukraine the total area of the land of settlements constituted 7554,11 thousand ha, and land inventory had been performed on 5115,99 thousand ha, that was 67,7 %. The total area of non-agricultural lands outside the settlements constituted 10 525,20 thousand ha, and land inventory had been performed on 8 390,69 thousand ha of the land, that was 79,7% (Офіційний сайт Державної ...).

To some extent, the situation in the field of performance of the inventory is forced by a continuous im-

perfect regulatory base of land inventory in Ukraine. In particular, legal instructions of the Article 35 of the Law of Ukraine «About land development» defines only the aim of land inventory in the process of land organization (Про землеустрій... 2003). The main requirements concerning performance of the works of land inventory, which approved completing of topographic-geodesic works in the common state system of coordinates, were legally adopted only in 2011 by the Law of Ukraine «About the State land cadaster» and in 2012 by the Order of land inventory performance.

Lack of appropriate regulatory supply has caused appearance of errors in land-cadastral data. Land parcels of the citizens, who have used their right for free cession of land parcels from the state to communal holding in the period from 1991 to 2004, are not assigned with a cadastral number and thus, boundaries of their land use are not represented at the Public cadastral map.

A considerable share of peasants, who gained the right for a land parcel (share), is represented by the aged people without descendants, and they have not legally approved their right for ownership of the land parcel. It has caused appearance of unclaimed land parcels (shares), i.e. a person, who has the right for the land parcel (share), has not exercised the right.

Land inventory, which is performed according to the principles of planning, relevant and complete data, gradual and standard procedures, availability of information base, consolidation of the data with accordance to the common fundamentals and technologies of their processing, is the main instrument to eliminate the detected disagreements and violations and supply the information to the state cadaster.

Initial data for land inventory performance include:

- materials of the State fund of documentation concerning land development;
- information of the State land cadaster in paper and electronic copy, including Land book, book of registration of the state acts of property right for land and the right of permanent use of land, agreement of land lease, files of exchange of the data about results of the works concerning land development;
- town planning documentation, approved in the legally established order;

- plan-cartographic materials, including ortho-photos, are designed basing on the results of the performed works according to the Agreement between Ukraine and the International Bank of Reconstruction and Development;
- information of the State register of property rights for real estate objects and their restrictions;
- copies of the documents, which certify the right for a land parcel or confirm payment of land tax;
- materials, prepared according to the results of observation of quality conditions of land parcels (Порядок проведення інвентаризації... 2012).

Performance of land inventory secures determination of the land parcels, which are disposed or not disposed to holding (use), those land parcels, which are used without any documents, certifying the right for them or are used with violation of their intention, as well as specifies unclaimed land parcels (shares) and lands of escheat (see: Fig. 3).

Land inventory should define location of high security facilities and areas of restricted use of the surrounding lands. A high security facility is an object of natural or artificial origin (water object, object of major pipelines, power object, object of cultural heritage,



Fig. 3. Land inventory on the territory of amalgamated territorial communities*

* Source: completed by the authors on the base of Офіційний сайт Державної...

military object, other legally defined objects), which has restriction in or outside it, being defined by the law and are forced by natural and acquired particularities (Про Державний земельний ... 2011).

Restrictions of the land use are the approved prohibitions on performance of some kinds of economic activity, connected with the land use, requirements to avoid definite actions or supply a restricted opportunity to use it with a clearly set goal (Новаковський та ін. 2015).

Modern geoinformational basis of the State land cadaster does not include the necessary data about available restrictions concerning land use, in particular:

- title and code (number) of the restriction (in total and according to some contours);
- contours of the restriction with coordinates of their turning points and length;
- area of the restriction (in total and according to some contours);
- list of prohibited kinds of activity and obligations concerning committing of some actions;
- description of a high security facility (title; contours of boundaries with coordinates of turning points and length);
- area (in total and according to separate contours);
- information about the documents, specifying restrictions (title, data and number of the resolution about approval of the documents of land development, which defines the restrictions, title of the body, which has approved it, date of its validity), electronic copies of those documents (Порядок ведення Державного ... 2012).

Nowadays, after the start of the National cadastral system, it is crucially important for land inventory to organize all high security facilities, which are located on the territory of an amalgamated territorial community and to determine limits of their impact on the use of adjacent land parcels.

Legal restrictions of land parcels use is an important instrument to secure intended use of lands, because the goals of the restrictions are:

- 1) to keep the size of the area and number of particularly valuable land parcels,
- 2) to prevent a non-argued change of intended use of land parcels by wish of owners (land-users),

- 3) to prevent fall of quality characteristics of land parcels in case of harmful anthropogenic impact in combination with social interests (Мапахін, 2012).

Land use restrictions govern how land can be used and how uses can be changed. Land use restrictions are widespread (OECD, 2008). The Order of performance of land inventory specifies the following restrictions of land use (Порядок проведення інвентаризації ... 2012):

- protected areas around the objects of natural-reserve fund, cultural heritage, transportation, connection, power system, hydrometeorological activity, geodesic point, engineering communication, industrial object;
- areas of sanitary protection of sources and objects of central fresh water supply, districts of sanitary protection of resorts;
- sanitary-protected areas around the objects;
- areas of specific status of land use (border stripes, military units and others);
- water-protection restrictions (water-protective area, coast stripe along rivers, around waters and on islands, seas, sea harbors and lagoons);
- areas of special status of building-up, radioactive pollution of the territory, extreme ecological situation;
- land easements;
- right for use of alien land parcels for building (superficies);
- right for use of alien land parcels for agricultural needs (emphyteusis);
- territories and objects of natural-reserve fund.

Figure 4 gives examples of formation of high security facilities and establishment of limits of restricted land use on the territories of amalgamated communities in Ivano-Frankivsk, Lviv and Chernivtsi regions.

Application of the restrictions in use of agricultural lands on the territory of amalgamated communities will regulate economic activity concerning growing of some agricultural crops, use of some technologies of their growing or performance of some agro-technical operations, as well as non-argued intensive use of lands.

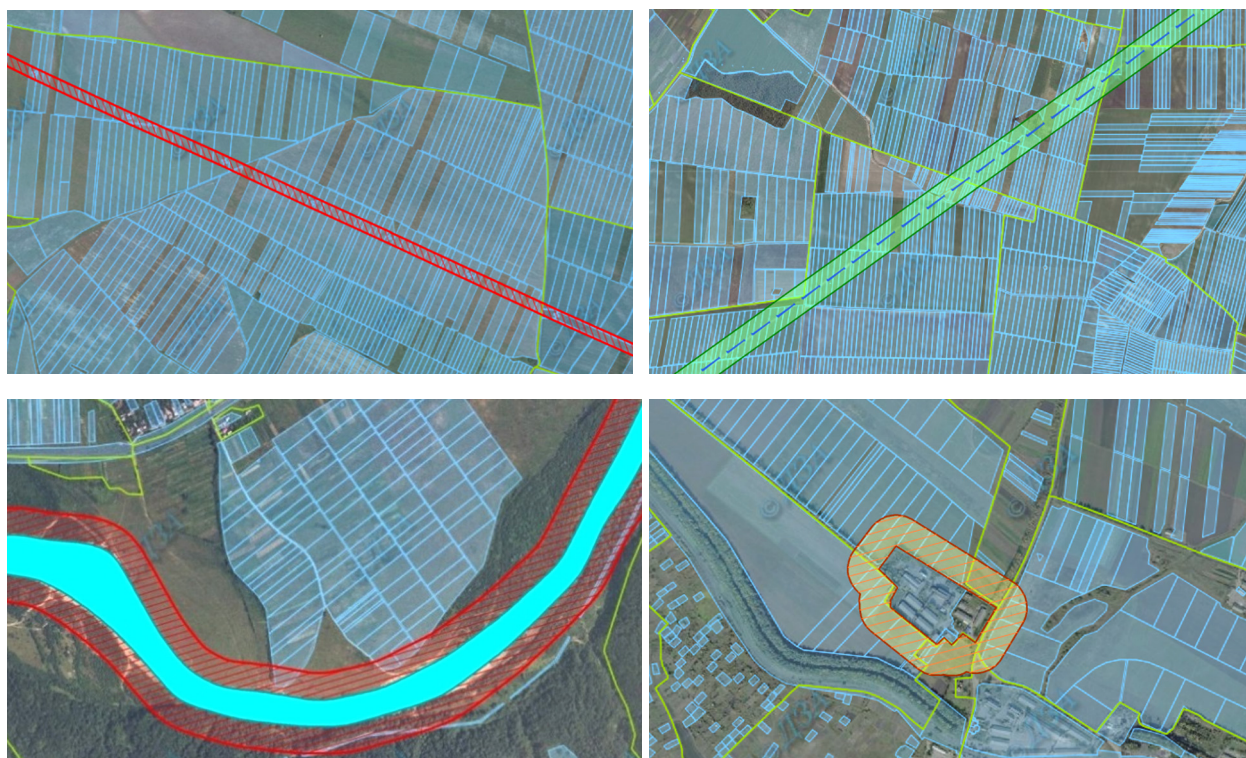


Fig. 4. Fragments of determination of the restrictions in use of lands of amalgamated territorial communities:

- a) recognition of a restricted area along the object of power system HV lines 35 kV – 35 m on the territory of Voinyliv settlement territorial community of Ivano-Frankivsk region;
- b) recognition of a restricted area around the engineering communication of oil pipeline “Druzhba” Du 500 – 100 m on the territory of Chervone territorial community of Lviv region;
- c) recognition of a coast protective stripe along the Dnister river – 100 m on the territory of Novyi Kalyniv town territorial community in Lviv region;
- d) recognition of a protective area around the industrial object – 100 m on the territory of Zastavna community in Chernivtsi region

CONCLUSIONS

Implementation of the reform of administrative and territorial organization in Ukraine will secure creation of a modern system of local self-government on the base of European fundamentals of local democracy development and give authorities and resources to territorial communities. Such step will support local economic development, supply available public services of high quality for population. Power of territorial communities will serve as an efficient factor to stabilize social and economic situation, overcome contradictions between the power levels, secure improvement of efficiency of budget funds use at all

managerial levels. Amalgamated territorial communities will take a key function in the processes performance.

Thus, the further implementation of the reform of territorial organization of power and local self-government on the fundamentals of decentralization will depend on performance of land inventory, which will supply an opportunity to transfer state-owned agricultural lands outside settlements to the disposal of amalgamated territorial communities. Such transformation will support a clear and transparent formation of revenues of local budgets in terms of payments for land and will stimulate economic development of amalgamated communities.

Performance of land inventory is the key factor of its sustainable territorial development. It will secure recording of all landowners and land-holders, determine location of regime-forming objects and fields of restrictions in land use around the objects, regulate land use and protection, detect violations in land use and help to apply appropriate measures concerning their elimination. The inventory will also help to perform monetary valuation of lands in order to define the size of land tax and lease payment for its use, will support sustainable land use planning and will attract additional sources of investments.

Thus, land inventory is a basic constituent for implementation of power decentralization reform in Ukraine. Its successful implementation will secure not only sustainable territorial development of amalgamated communities, but also the further establishment of a new administrative and territorial organization in Ukraine.

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REJESTR GRUNTÓW JAKO INSTRUMENT ROZWOJU ZJEDNOCZONYCH HROMAD TERYTORIALNYCH NA UKRAINIE

ABSTRAKT

Niniejszy artykuł omawia szczególne cechy nowej organizacji administracyjno-terytorialnej w warunkach decentralizacji władzy na Ukrainie. Wskazuje na najważniejsze etapy powstawania zjednoczonych hromad terytorialnych (zjednoczonych gmin) oraz warunki ich obecnego i przyszłego kształtowania. W artykule przedstawiono argumenty na poparcie tezy, że skuteczny rozwój odpowiednich terenów wymaga odejścia od centralnego finansowania, a także przekazania gruntów państwowych w posiadanie gminne.

Badanie przedstawia algorytm przekazywania gruntów rolnych, będących własnością państwa i ich zamiany w mienie komunalne przez instytucję zjednoczonych hromad terytorialnych. Działanie to pozwoli zapewnić precyzyjnie określone i transparentne wpływy do lokalnych budżetów w postaci płatności za grunty oraz przyczyni się do rozwoju gospodarczego zjednoczonych hromad terytorialnych.

Badanie potwierdza, że rejestr gruntów powinien stać się jednym z kluczowych instrumentów dalszego rozwoju zjednoczonych hromad terytorialnych, ponieważ przekazanie gruntów rolnych będących własnością państwa i ich zamiana w mienie komunalne przez instytucję hromad zapewnią lepszy rozwój gospodarczy zjednoczonych hromad terytorialnych oraz przyciągną inwestycje.

Słowa kluczowe: rejestr gruntów, zjednoczone hromady terytorialne, decentralizacja, grunty rolne