Land Administration

4.1. Institutional and legal framework

4.1.1. Institutional framework

The State Agency of Land Resources of Ukraine (SALR) is a central executive authority responsible for land resources management, whose activity is directed and coordinated by the Cabinet of Ministers of Ukraine through the Minister of Agrarian Policy and Food of Ukraine. It ensures implementation of the state policy in the field of land relations.

The SALR in line with its mandate:
- participates in preparation and implementation of activities for development of the land market;
- ensures scientific-expert, analytical, informational and methodological support and implementation of land management, land evaluation related to land auctions, organization of land auctions and ensures training of licitators;
- establishes an informational data base on land reform, land administration, land protection and monitoring of lands, maintenance of the state land cadastre, valuation activity and land auctions.

Total number of employees of the land resources bodies equals to 10 306 persons, including 280 on the central level and 10 026 on local level (at oblast, district and city levels).

The sphere of governance of SALR includes a number of enterprises, the main of which are the following: State Enterprise “Centre of the State Land Cadastre” with affiliates in regions and State Enterprise “Main Scientific-Research and Project Institute of Lands Arrangement” together with regional institutes.

State Enterprise “Centre of the State Land Cadastre” was established by the Decree of the Cabinet of Ministers of Ukraine of 2 December 1997 N 1355 “On the Program of Establishment of Automated System of Maintenance of the State Land Cadastre”.

In line with the Law of Ukraine “On the State Land Cadastre” SE “Centre of SLC” shall become Administrator of the State land cadastre and shall carry out activities for establishment and maintenance of software of the State land cadastre, shall be responsible for technical and technological provision, preservation and protection of data, contained in the State land cadastre.

State Enterprise “Main Scientific-Research and Project Institute of Lands Arrangement”. Main tasks, lines of activity and services:
- development of regional programs of use and protection of lands;
- establishment of boundaries of administrative-territorial units, territories of natural-conservation fund, sanative, recreational and historical-cultural purpose, land parcels of owners and land users;
- development of lands arrangement documentation;
- performance of topographic-geodetic and cartographic surveys and works, soil, geobotanic and other surveys and studies of land;
- monitoring of lands;
- performance of works, aimed at protection of lands;
- performance of land valuation works;
- rendering of informational, consultative and advisory services.

4.1.2. Legal framework

Land Code of Ukraine defines the land policy of the state that lies in final solving of problems of development of relations of ownership for land, formation of a civilized land market, development of mortgage crediting, perfection of the land payments system, enhancement of efficiency of state management of land resources, improvement of organization of state control over use and protection of lands.

Land legislation of transitory period guiding reformation of land relations has mainly been developed in Ukraine.

Since validation of the Land Code of Ukraine – since 1 January 2002 – it has been adopted 58 laws of Ukraine, 59 decrees of the Cabinet of Ministers of Ukraine and 65 departmental orders, registered in the Ministry of Justice of Ukraine that regulate land relations and use of lands, as well as constitute a base for formation of a land market. The key laws are the following:

"On Lands Arrangement" (22.05.2003 N 858-IV) – defines legal and organizational grounds of activity in lands arrangement sphere and it is aimed at regulation of relations that arise between state authorities, local self-government bodies, legal and natural persons regarding sustainable development of land use;

"On the Procedure of Actual (Afield)allocation of Land Parcels to Owners of Land Shares (Pais)" (05.06.2003 N 899-IV) – defines legal and organizational grounds of actual (afield) allocating to owners of land shares (pais) land parcels from lands that belonged to collective agricultural enterprises, agricultural cooperatives, agricultural joint-stock companies on the right of collective ownership, as well as the procedure of exchange of these land parcels;

"On Lands Protection" (19.06.2003 N 962-IV) – defines legal, economic and social grounds of lands protection with the view of ensuring their rational use, restoration and enhancement of soils fertility, other useful properties of land, preservation of ecological functions of soil surface and environmental protection;

"On State Control over Use and Protection of Lands" (19.06.2003 N 963-IV) – defines legal, economic and social grounds of organization of performance of state control over use and protection of lands, and it is aimed at ensuring rational use and restoration of natural resources and environmental protection;

"On Personal Farm Household” (15.05.2003 N 742-IV) – defines legal, organizational, economic and social grounds of keeping a personal farm household and property belonging to citizens that keep a personal farm household;

"On Farm Household" (19.06.2003 N 973-IV) – defines legal, organizational, economic and social grounds of establishment and activity of farm households as a progressive form of entrepreneurship activity of citizens in the field of agricultural of Ukraine;

"On Land Lease" (06.10.1998 N 161-XIV) – demolished collisions that existed in lease legal relations, promotes involvement of productive lands into active economic circulation. Legal protection of lessors and leasers was improved,
base of imposing of a lease payment was expanded. The Law ensured public control over rates of lease payment;

"On Use of Lands of Defense Formations" (27.11.2003 N 1345-IV) – establishes the procedure of use of lands, allocated for dislocation of military units, military-educational establishments, enterprises and organizations of Armed Forces of Ukraine, State Security Service of Ukraine and other force structures, established in line with the legislation. The Law defines performance of land protection activities for ensuring rational use of lands under defense objects, other military formations, it establishes the procedure of use of lands in zones of special mode, foresees control over target use of these lands, as well as responsibility for breach of requirements of land law;


"On the State Expertise of Lands Arrangement Documentation” (17.06.2004 N 1808-IV) – allowed to increase significantly quality of lands arrangement and lands valuation documentation and to strengthen legality in adoption of managerial decisions and in administrative actions concerning land parcels of all types of ownership and, as a result, to establish real guarantees of acquisition and implementation of subjective rights to land of citizens, legal persons;

"On Delimitation of Lands of the State and Communal Ownership” (05.02.2004 N 1457-IV) – regulates delimitation of lands of the state and communal ownership with the view of ensuring rights of territorial communities for ownership, expedient, economic, efficient use and administration of land parcels in their own opinion and in their interests;

"On Ratification of the Loan Agreement (Project “Rural Land Titling and Cadastre Development”) between Ukraine and the World Bank of Reconstruction and Development” (15.06.2004 N 1776-IV) – gives possibility to establish proper state guarantee of right of ownership to land parcels and real estate, ensure completion of privatization of lands of existent agricultural enterprises, sustainable development of agricultural and environmental protection, as well as to establish an automated system of maintenance of the state land cadastre;

"On the State Registration of Rights for Real Estate and their Encumbrances”(01.07.2004 N 1952-IV) – defines legal, organizational and economic grounds of conducting the state registration of material and other rights that are subject to registration in line with this Law, and their encumbrances, and it is aimed at ensuring recognition and protection of these rights by the state, establishment of conditions for operation of the real estate market;

"On Protection of Constitutional Rights of Citizens for Land” (20.01.2005 N 2375-IV) – defines value of lands arrangement works in regard to preparation of documents that certify the right of ownership for land parcels, in free of charge transfer of land parcels into ownership of citizens of Ukraine;

"On Amendment of some Legislative Acts of Ukraine regarding Reinforcement of Liability for Unauthorized Occupation of a Land Parcel”
(11.01.2007 N 578-V) – reinforces administrative liability and introduces criminal liability for unauthorized occupation of a land parcel;

“On Amendment of some Legislative Acts of Ukraine regarding Reinforcement of Liability for Breach of Requirements of Land Law” (15.04.2008 N 271-VI) – reinforces administrative liability for breach of requirements of the land law through increase of fine rates, promotes rational use and protection of land resources, establishment of a more efficient procedure regarding cessation of breaches of requirements of land law and demolition of their negative consequences;

"On Amendment of some Legislative Acts of Ukraine regarding Simplification of the Procedure of Acquisition of Rights for Land” (05.11.2009 N 1702-VI) – establishes the procedure of giving consent for lands arrangement documentation according to the principle of “one stop shop” through establishment under each district state administration or in the city of oblast significance of a commission that includes representatives of all bodies authorized to give consent to such documentation;

"On Alienation of Land Parcels, other Real Estate Objects, that are Located on them, being in Private Ownership, for Public Needs or because of Public Necessity” (17.11.2009 N 1559-VI) – defines legal, organizational and financial grounds of regulation of public relations that arise in the process of alienation of land parcels, other real estate objects, that are located on them, being in ownership of natural or legal persons, for public needs or because of public necessity.

"On the State Land Cadastre» (07.07.2011 N 3613-VI) – defines legal, economic and organizational grounds of activity in the field of the State Land Cadastre.

4.2. Land Reform

Pursuant to Article 14 of the Constitution land is the main national treasure that is under special protection of the state. Right of ownership for land is guaranteed. This right is acquired and implemented by citizens, legal persons and the state exclusively in compliance with the law.

End of 1990 the Parliament declared a land reform, the main goal of which was in establishment of conditions for rational use and protection of lands through development of different forms of ownership and economic activity on land, development of new land relations that would meet the requirements of the market economy and rational nature use. Decree of the Parliament of USSR of 18 March 1990 declared that from 15 March 1991 all lands in Ukraine shall be an object of the land reform which is a constituent part of the economic reform conducted in Ukraine due to transfer of the state economy to market relations.
In March 1991 the Land Code of Ukraine was adopted (lost validity in 2002 because of adoption of a new Land Code of Ukraine) that decided on lines of reformation of the monopolistic right of the state for land and defined three forms of ownership: state, collective and private.

Following land reform in Ukraine principally new land relations have been formed in Ukraine based on private ownership for land, its lease, inheritance, presenting, swap, etc. Following denationalization of lands and their transfer into ownership of collective agricultural enterprises and citizens during 1991-1996 the land fund was redistributed by forms of ownership and economic activity with significant changes in its structure. If at the beginning of 1992 all land fund of Ukraine was in the state ownership, by the end of 1996 its specific weight was 60.2 %, collective ownership – 36.6 % and private – 3.2 %. As of beginning of 2010 48.5 % of lands were in the state ownership, 51.4 % - in private and 0.1 (as certified by state titles) – in collective.

Pursuant to Decrees of the President of Ukraine of 10 November 1994 N 666/94 “On Urgent Activities for Speeding up the Land Reform in the Field of Agriculture” and of 8 August 1995 N 720/95 “On the Procedure of Sharing Lands, Transferred into Collective Ownership of Agricultural Enterprises and Organizations” lands, transferred into collective ownership of agricultural enterprises and organizations, were shared between members of these enterprises. Including retired ones. Thus, the matter of free of charge provision with lands those who cultivate them has been decided.

Following the land reform over two thirds of agricultural tracts (27.5 mio ha) were transferred into private ownership of citizens and legal persons; 6.8 mio citizens received certificates for a right for a land share (pai), 99.2 % of whom had them changed for titles. On average area of a land share (pai) across the country equals to four hectares and ranges from 1.1 hectares in Ivano-Frankivsk region to 8.9 hectares in Lugansk region.

As of 1 January 2011 34,715 new agroformations of a market type have been established in Ukraine, out of them – companies with limited liability – 7,934; joint-stock companies – 723; private (private-lease) enterprises – 5,331; agricultural productive cooperatives – 1,022; farm households – 11,946; other economic agents – 7,759. Besides, 1,149.3 thou. citizens keep individual (private) households without establishment of a legal person, who have expanded their land possessions at the expense of land shares.

Over 4.6 mio of land shares’ owners gave their land shares (pais) and land parcels into lease. Area of leased lands at the beginning of 2011 equaled to 17.4 mio ha. Total number of lease contracts is 4,620.2 thou., out of which 2,429.5 thou. were concluded with retired peasants. As regarding terms of validity: for 1-3 years – 8.5 %; for 4-5 years – 46.2 %, for 6-10 years – 33.9 % and for more than 10 years – 11.4 %.

The Land Fund of Ukraine equals to 5.7 % of the territory of Europe.
The Land Code of Ukraine divides all lands into 9 categories according to their target purpose: lands of agricultural purpose; of housing and public construction; of natural-conservative and other natural protection purpose; of sanative purpose; of recreational purpose; of historical-cultural purpose; of the forest fund; of industry, transport, communications, energetics, defense and other purpose.

As regards composition of lands of the country, out of 60.3 mio ha almost 70.9 % (42.8 mio ha) are lands of agricultural purpose; 17.6 % (10.6 mio ha) – lands of the forest fund. Over 90 % of the territory are involved in economic use and only around 8 % - 5 mio ha – are in natural condition – these are swamps, lakes, rivers and mountains.

The area of plough land of agricultural tracts is one of the highest in the world. It reached 78.1 % on the average in Ukraine, and in some regions it reaches up to 90 %.

At the beginning of January 2011 all land owners and land users had 41,576 thou. ha of agricultural tracts or 68.8 % of the total area of lands of Ukraine. Area of arable land equals to 32,476.5 thou. ha or 78.1 % of the total area of tracts. During 1996-2011 area of agricultural tracts decreased at 454.3 thou. ha, because of allocation of lands to enterprises, institutions and organizations for non-agricultural needs, to protective forest plantations, internal economic household construction, and because of turning into non-agricultural tracts.

Total area of agricultural tracts that are subject to destructive impact of water and wind erosion, equals to 30.7 %, deflation-dangerous soils constitute 19.1 % of the total area.

Pursuant to Order of MAP of Ukraine and Presidium of UAAS of 3.04.2000 N 26/33 “On Urgent Activities for Improvement of Land Use”, around 9 mio ha of arable lands should be conserved and taken out of intensive cultivation. This will give a possibility to decrease the level of ploughing of the territory to ecologically optimal, to concentrate agricultural production on the best lands.

Introduction of a fully-fledged operational land market of agricultural purpose shall be a logical completion of the land reform in the country.

In order to ensure transparency and democracy on the land market a draft law of Ukraine “On Land Market” was submitted to the Parliament of Ukraine (registr. N 9001-1 of 19.07.2011).

The Law of Ukraine “On Land Market” was included on the list of key draft laws, adoption of which are necessary for implementation of the Program of Economic Reforms for 2010-2014 “Prosperous Society, Competitive Economy, Efficient State”.
4.3. Cadastre and land registration

On the 7th of July 2011 the Law of Ukraine “On the State Land Cadastre” was adopted, that defined main lines of development of the state land cadastre in Ukraine and basic provisions of which gain force from the 1st of January 2012.

The Law has filled with a new contents the definition of the State Land Cadastre as a single state geoinformational system of data about lands within boundaries of the State Border of Ukraine, that are: their quantitative and qualitative characteristics, target purpose, restrictions in their use, valuation and distribution of lands between owners and users.

The Law contains a number of principally new provisions as regards grounds, procedures and terms of performance of the state registration of land parcels that are aimed at reduction of corruption, simplification and speeding up of all necessary procedures. Analysis of the submitted documentation and input of all data about a land parcel shall be carried out exclusively by district (city) territorial bodies of the central executive authority on land resources.

Besides, this legislative act introduces an institute of state cadastral registrars – specially authorized officials that are personally responsible for registration of documents of the state land cadastre and that are procedurally independent subjects. Total term of input of data about lands and land parcels into the state land cadastre is fourteen days since submittal of all necessary documents.

The Law identifies an exclusive list of documentation on lands arrangement and lands valuation that is grounds for input of data into the state land cadastre. Besides, it was established an exclusive list of persons that can initiate amendment of data of the Land Book (mostly these are an owner or a user of a land parcel of the state or communal ownership).

The procedure of exchange of information between the State land cadastre and the State register of property rights for real estate. In particular, it was established that information about input into the state land cadastre of data about the formed land parcel together with its cadastral plan in electronic (digital) form shall be sent to the body that performs the state registration of property rights for real estate. The latter, in its turn, sends to the state land cadastre information about the fact that the right for a land parcel has been registered for a certain person.

Holder of the State land cadastre is a central executive authority on land resources.

Administrator of the State land cadastre is a state enterprise that belongs to the sphere of governance of the central executive authority on land resources and performs activities for establishment and maintenance of software of the State land cadastre; it is responsible for technical and technological provision, preservation and protection of data, contained in the State land cadastre.

Since 2008 SALR has been digitizing all graphical materials of lands arrangement documentation. Thus, along with systematization and input of information from exchange files, lands arrangement documentation that existed on paper is digitized.

At the expense of the World Bank loan the investment project “Rural Land Titling and Cadastre Development” is implemented (2004-2012).
The cadastre system within the framework of the Project is to be built during 2010-2012 in 5 stages:

- analysis, development and introduction of a pilot system of registration of land parcels – June 2011, complete analysis and development of a draft design of the cadastral system – November 2011;
- purchase of computer and copy equipment for the automated system of keeping the state land cadastre – June 2011;
- introduction of the cadastral system at the central and regional levels – January 2012;
- introduction of an automated system of keeping the state land cadastre and its expansion at the district level – May 2012;
- support and maintenance of the automated system of keeping the state land cadastre at all levels during two years starting with June 2012.

In compliance with the Law of Ukraine “On the State Land Cadastre” from the 1st of January 2012 registration of land parcels shall further on be carried out by territorial bodies of land resources, and in compliance with the Law of Ukraine “On the State Registration of Property Rights for Real Estate and their Encumbrances” registration of rights for real estate shall be carried out by territorial bodies of the State Registration Service of Ukraine.

Pursuant to the aforementioned laws it is being developed normative-legal acts that regulate issues related to registration of land parcels, rights for real estate and exchange of information between corresponding territorial bodies.

4.4. Topographic and cadastral mapping

Within the framework of the World Bank project “Rural Land Titling and Cadastre Development” aerial photography works are performed, based on which it is created digitally:

- orthophotomaps for the whole territory of Ukraine in the scale 1:10000,
- orthophotomaps of rural populated settlements in the scale 1:5000,
- orthophotomaps of cities and towns with population up to 200 thou. persons in the scale 1:2000.

Materials of space survey of high segregation capacity were used for compiling maps for some territories in the scale of 1:10 000 and 1:5 000.

Accuracy of orthophotocorrection of images for digital orthophotoplans meets the requirements of the European Commission.

At present within the framework of the Project it has been performed aerial survey of the territory of 24 oblasts and AR of Crimea for the total area of 599.6 thousand sq. km, as well as produced:
orthophotomaps in the scale 1:10000 for the territory of 20 oblasts of Ukraine and AR of Crimea for the total area of 461.7 thousand sq. km;

orthophotomaps in the scale 1:5 000 for populated settlements of 20 oblasts of Ukraine and AR of Crimea for the total area of 48.5 thousand sq. km;

orthophotomaps in the scale 1:2 000 for cities and towns of 20 oblasts of Ukraine for the total area of 9,777.8 thousand sq. km.

Based on the produced orthophotoplans and orthophotomaps index cadastral maps for the total area of 344.9 thousand sq. km.

Completion of cartographic works is expected in June 2012.

Orthophotoplans, received following the Project shall be used for keeping the cadastral system, lands inventory, delimitation of the state and communal ownership, land arrangement works.

4.5. Land Taxation

From 1 January 2011 land payment is imposed in compliance with the provisions of Chapter XIII of the Tax Code of Ukraine (TCU hereafter), that define main elements of the payment, that are: payers, objects and taxation base, tax rates, procedure of its calculation and payment deadlines, as well as the procedure of preferential taxation of land parcels.

Normative pecuniary valuation of land parcels is used for definition of the tax rate and lease payment for land parcels of the state and communal ownership. Management in the sphere of valuation of land and land parcels is performed by the central executive authority on land resources.

Following normative pecuniary valuation of lands technical documentation is compiled. Data about normative pecuniary valuation of a separate land parcel are formalized as an excerpt from technical documentation about normative pecuniary valuation of the land parcel.

In line with item 286.1 of Art. 286 of TCU data of the state land cadastre are the basis for charging the land tax.

Therefore in order to calculate the amount of the tax obligation from the land tax, if the normative pecuniary valuation of the land has been established, the payer must apply to the corresponding body of land resources for an excerpt from the state land cadastre about the amount of the normative pecuniary valuation of their land parcel.

Land tax payers (but for natural persons) annually calculate themselves the tax amount as of 1 January and before 1 February of the current year submit to the corresponding body of the state tax service (depending on location of the land parcel) a tax declaration for the current year in the form, established according to
the procedure, foreseen by Art. 46 of this Code, with distribution of the annual sum into equal shares across months. The first declaration (actual beginning of activity of the tax payer) will also submit a certificate (excerpt) about the amount of normative pecuniary valuation of a land parcel, further on such a certificate will be submitted in case of approval of a new normative pecuniary valuation of land.

For ensuring control over correctness of calculation and completeness of payment for land in line with Part Two of item 286.1 of Art. 286 of TCU executive authorities on land resources at request of the corresponding body of the state tax service (depending on location of the land parcel) submit information, necessary for calculation and imposing of payment for land.

The procedure of cooperation of executive authorities as regards exchange of information, necessary for calculation and imposing of payment for land, is approved by the Decree of the Cabinet of Ministers of Ukraine of 01.08.2006 N 1066 (with amendments).