

ADMINISTRATION AND LEGISLATION IN AGRICULTURE

LATIFUNDIA – LEGAL STATUS, REGULATION PROSPECTS

Conflict of Interest

None declared.

Alla Andreevna Murasheva^{1*}, Viktor Michailovich Stolyarov¹, Pavel Aleksandrovich Lepekhin¹

¹ State University of Land Use Planning, Moscow Russia

*To whom correspondence should be addressed.

Associate editor: Alautdin Aliev

Received on 30 March 2018, revised on 6 April 2018, accepted on 11 April 2018.

Abstract

Latifundia is a large agricultural enterprise, a private property of a single person or a large corporation. Comparative latifundia are found throughout Russia, and a large class of latifundists has been already formed. The problem of our country is that this process is accompanied by business and power merging. The purpose of our study is to analyze this issue, to show the most significant consequences of the latifundia emergence in Russia and any measures, that can be effective in regulating this process in our opinion.

Keywords: *agroholding, latifundia, latifundist, land monopoly, legal regulation, land share, super-large-scale land use.*

Contact: *amur2@nln.ru*

The last few years, beginning from 2014, were remarkable for a very difficult economic situation in the Russian Federation, a number of experts consider this as a large-scale financial and industrial crisis. They rely on information given by Rosstat, and it is aligned with this position – the fall in GDP was 2.5% in 2015 compared to 2014, in the next year, this drop has reached 2.8% at constant prices. A small increase was demonstrated in 2017 – the economy has got a growth of 1.5% compared to the previous year, but nevertheless it has not been possible to reach the pre-crisis level (Federal Service of State Statistics. 2018). The following industries showed a drop: processing industries, wholesale and retail trade, certain types of services. Despite the fact that in each specific case, in each individual sector, for example, in agriculture, by 2017, they managed to achieve high results – Russian Federation took the first place in the world for wheat export in 2016, and in 2017 they harvested a record yield, the remaining areas of agricultural production are also marked by growth (the number of pigs as of January 1, 2017 increased to 22,033.3 heads, total meat production of all species has increased up to 13,939.1 thousand tons).

This success is due to the statistics, which indicates that a large percent of agricultural production is given by agricultural enterprises, and individual farms, and agroholdings have an insignificant share. The increase in the share of lands of the latter ones is observed at that. Promidex (+Agrokultura), Rusagro, Miratorg, Agrocomplex, "Ak Bars" are the leaders in rating of land assets owning, these

companies increased their total assets by more than 10% for the period 2016-2017.

Over the five-year period, these five leaders have increased their area from 1,554 thousand hectares to 3,249 thousand hectares – more than two times and currently more than a quarter of the land, used by these agroholdings (the total number of companies in this rating is about 50 companies). Thus, we can assert with good reason that in free conditions, latitude trends are gaining momentum and latifundia tendencies are strong.

The problem of latifundia has a long history, which in most cases is connected with the concentration of land in the hands of a single person, saving its monopoly in the agricultural products market, generating super profits against the background of the extremely modest income of all others, especially of hired employees. V.I. Lenin, in his work "Agrarian Program of Social Democracy in the First Russian Revolution of 1905-07", draw the attention of the reader to the fact that the vast majority of lands are latifundia, according to the distribution statistics there were 28,000 aristocratic estates on 62 million dessiatines, while 73 million dessiatines were kept by 10 million peasant households (Lenin, 1972).

Later, in the time of the USSR, the problem of latifundia was not raised, as such, in view of the substantial change in the farm organization compared with pre-revolutionary Russia. The latifundia was spoken again after the end of the USSR history. The formation of large agroholdings has begun in the 90s of the 20th century, almost simultaneously with the introduction of the institution of private ownership

of agricultural land and the parallel reorganization of collective and state farms – external investors came to unprofitable agricultural enterprises. Land shares, being the main tool of agricultural industry, first were restricted in turnover, and subsequently became the object of consolidation by financial and industrial groups and the allocation of unified land.

The most significant consequences of the latifundia emergence are presented by the following list:

- improper use of land in agricultural production, ignoring land management measures, failure to comply with the rules of rational use and protection of land from degradation processes. It is common for the situation when the land is actively used for several years consecutively, exhausting the land plot and restoring its former fertility for several decades;
- withdrawal of land from economic turnover. As a result of the above actions, it is often cheaper to give up land plots than to implement a complex of reclamation measures. Hundreds of hectares are abandoned as a result of this production policy and, often, having uncertain legal status.
- the emergence of shadowland turnover. The land shares of citizens were bought for not obvious reasons; they were leased out or rendered as contributions to the authorized capitals of enterprises. The powerful financial and administrative capabilities of investors-latifundists often allow to use the land without proper clearance and legal transparency;
- monopolization of agricultural production. The concentration of fertile areas, increased volumes of production and sales of products, cheapening of logistics does not leave a chance for competition to smaller players in the agricultural market, or forcing to leave this sector of the national economy, or assigning them the role of a raw-material appendage on conditions declared by the latifundist monopolist;
- potential social situation worsening. Under conditions of monopolization of the production sphere, the local population, forced to take the position of hired employees, and is deliberately doomed to worsen its working conditions and payment conditions. If the holding management does not pursue a socially responsible policy, the local wage-earning population may be replaced by a cheaper labor force;
- transfer of land from one category to another. The most striking example of such a process can be the transfer from agricultural land to the lands of settlements and their subsequent construction.

Leading experts in the agrarian economy and land-property relations talk about the danger of latifundia forming. Academician of the Russian Academy of Sciences V.N. Khlystun in a commentary to *Krestyanskiye Vedomosti* publication has mentioned the following: "...look what happens to the created super-large land monopolies – latifundia. Powerful investors come and invest heavily in the development of land. But we need to understand: there is a reasonable limit to the concentration of land in the hands of a single legal entity ... world experience shows that the latifundia served as an instrument for the economic state destruction" (Khlystun, 2018). A similar opinion was expressed by the Doctor of Economics, Director of the AgroFood Policy Center of the Russian Academy of Sciences and the State Duma under the President, N.I. Shagayda: "...reduction of competition in the agriculture of the territories both in production and in attracting employees... In addition, there appear a number of other expenses, concerned with the holdings formation. They arise

thanks to power, as the influence grows, they become a force the authorities have to reckon with. Holdings squeeze small and medium businesses and generally affect rural life" (Shagaida, 2018). It is difficult to disagree with the above opinions, especially since their fairness is very clearly correlated with reality – one can recall what monopolization and subsequent interpenetration of private and public interests can bring in its most extreme manifestations, namely, the loud tragic events in 2010 in the Krasnodar Territory.

Reasoning about the image of the native latifundist, it is necessary to say that this is not a specific individual who has registered ownership of giant land plots. Today, this is a large corporate holding company with a complex organizational structure, which includes subsidiaries, a vertical value chain is built, hundreds of employees are employed, and geographically the activity is not limited to one region. The land plots are both owned by the holding's enterprises and leased from other subjects of land and property relations; it should be said that acquiring land plots is often cheaper than long-term rent, therefore, holding companies strive for this kind of land use model.

Despite the fact that above we have listed a number of negative aspects closely associated with the formation of the latifundia model of land use, it would be unfair to ignore some of the positive aspects of the functioning of large agroholdings. We agree with the opinion of V.Ya. Uzun and others: "The organization of a business in the form of a holding company has several positive aspects. The main one is the reduction of financial risk. When creating a holding structure, particular organizations its parts, keep their legal independence and bear responsibility for their obligations. In this case, the insolvency of individual organizations in the holding does not affect other organizations. This increases the stability of the system itself" (Uzun, 2012).

Domestic legislation cannot be considered to be developed in terms of determining the place and content of such concepts as latifundist or holding. Further we consider it expedient to use them as identical to each other. A latifundist is a person occupying a large area. There is no rule in the domestic law, which clearly establishes a certain area of shares in natural or fractional terms, the excess of which makes it possible to classify the enterprise as a latifundist with the proper consequences. Small and microenterprises are not physically able to accumulate significant areas, because at a certain point of time, the overall economic effect when acquiring an additional unit of land and an unchanged model of management will decrease. Therefore, speaking of latifundists, we automatically mean holding formation, which has the following characteristics:

- the presence of the beneficiary (or beneficiaries), a person directly or indirectly influencing management decisions in the group and being the ultimate beneficiary;
- the presence of the parent company that establishes the following levels of the holding – subsidiaries, and determines the overall supply-side model;
- transfer pricing, which allows more efficient management of the tax burden of the persons belonging to the holding from the point of view of holding organization, and ultimately to redistribute profits in favor of the beneficiary.

The main regulations governing land and property relations are the Russian Constitution, the Civil Code, the Urban Development Code, the Land Code, the Federal Law "On Turnover of Agricultural Land" No. 101-FZ. From the point of view of regulating possibilities of latifundia

phenomena, the Land Code and the Federal Law "On the circulation of agricultural land" are of great interest.

As it was noted above, domestic legislation does not contain a provision that would allow landowners to be classified as large or the largest (by analogy with taxpayers who are included in this category by orders of the Federal Tax Service). But, nevertheless, there is a legislative restriction, contained in Section 2, Art. 4 of the Federal Law "On the circulation of agricultural land" states that "The maximum size of the total area of agricultural land that located in the territory of one municipal area and may be owned by a single citizen and (or) a single legal entity is established by the law of a constituent entity of the Russian Federation in less than 10 percent of the total area of agricultural land located in the mentioned territory at the time of granting and/or acquisition of such land plots" (The Russian Federation. Laws. 2012). Regions, as a rule, left this area value as the maximum. In practice, it is not difficult to overcome this restriction. It is enough for the holding to create ten legal entities so that everyone owns ten percent of the area. Thus, formally, land plots are owned by individual economic entities, and in fact are in the hands of a single owner. In this respect, for example, the law does not contain rules restricting the ownership of individual legal entities created by a single parent company and does not provide any rules for verifying the affiliation of organizations on the basis of ownership. The Land Code of Russia, unlike the Federal Law "On the circulation of agricultural land," does not affect the issue related to the maximum size of land plots owned by citizens or legal entities. Thus, up to date, there are no effective mechanisms to counteract the concentration of land in the hands of nominally different persons, but in reality in the hands of a limited number of beneficiaries.

It should be useful to mention the Russian antimonopoly legislation – Federal Law No. 135-FZ "On Protection of Competition." The latifundist, who owns lands much larger than that of smaller owners, occupies a dominant position in the market. Although the law establishes that the dominant position arises from the one who holds a market share of more than fifty percent, we believe that in the case of agricultural land, it is appropriate to speak of a dominant position by virtue of owning the main means of production at a scale that is several times bigger than of farmers or subsidiary farms of the population. Such disparity can be characterized as a direct restriction of competition in agricultural production.

Summarizing the above said, it should be noted that the authors do not support the unambiguous and unquestionable liquidation of agrohholdings. We believe that in modern conditions, different organizational and legal forms of enterprises and different levels of organization of business processes should be reasonably combined. At the same time, the issues of limiting latifundia tendencies should be an integral part of the state land policy aimed at preserving, protecting and rationally using agricultural land resources.

We believe that monitoring to identify latifundists and limit the concentration of excessive land in the hands of a single person, or in the hands of individuals or group companies that are affiliated with each other should be carried out in a complex and coordinated manner among such departments as: Federal State Registration Service, cadastre and cartography; The Federal Tax Service; Federal Antimonopoly Service in the order of interdepartmental interaction and coordination.

Let us briefly describe the system of monitoring and regulating of latifundia. A special place in interdepartmental cooperation should be given to the Federal Tax Service.

Today, the FTS has enough resources and technologies, which can be focused on analyzing the sales chains and the proceeds from the sale to specific legal entities. Therefore, it can be assumed that latifundists can be tracked not only with the help of land supervision measures (which are increasingly being discussed today) but also with the help of automated control systems for tax returns. Naturally, this is due to the fact that the major latifundists are the largest agricultural holdings that sell their products to the main trade networks. At the same time, smaller enterprises and farms face, sometimes, insurmountable difficulties in promotions of their products somewhere, except for local markets, which are often characterized by very modest consumer expectations and purchasing power of the local population. The explanation of this, in addition to very specific factors (such as commercial bribing of retailers' officials for the right to display their products in a particular network), may be a difference in taxation systems.

It's no secret that large business enterprises are very reluctant to cooperate with enterprises and entrepreneurs of a smaller scale, because the first ones are payers of value-added tax, while the last ones have a special tax regime – or a simplified taxation system in the form of paying an income rate (or the difference between income and expenses), or a single agricultural tax. In such circumstances, small and medium-sized enterprises, without sufficient turnover being VAT payers, cannot accrue it to their potential buyers, and those, in turn, are deprived of the opportunity to present it for deduction, or to partial reimbursement during the formation of declarations and pays taxes in the reporting period. Thus, monitoring the VAT chains will first allow identifying large agricultural enterprises, and then determine the degree of their affiliation with specific natural beneficiaries, then apply barrier tax rates – either concerning land assets or profit of the monopolistic structure.

In general, the Russian Federation should formulate such a land policy in relation to agricultural land, in which land is not only a means of production but the main natural resource, the main wealth, from the distribution of which between producers depends not only the level of production or the volume of sales to the population, but also the overall socio-economic situation in the regions and the country as a whole (Khlystun, 2017; Verzhini, 2016). The formation of latifundia and the lack of measures to regulate this process can no doubt be recognized as one of the obstacles to the development of the agro-industrial complex as a whole.

References

The Russian Federation. Laws. (2012). Ob oborote zemel' sel'skohozjajstvennogo naznachenija [On the turnover of agricultural land]: the federal law of July 24, 2002 N 101-FZ.

Federal Service of State Statistics. (2018). Indeksy-defljatory [Indexes-deflators]. http://www.gks.ru/free_doc/new_site/vvp/vvp-god/tab4.htm.

Federal Service of State Statistics. (2018). Korrektirovka valovoj dobavlennoj stoimosti [Correction of gross value added]. http://www.gks.ru/free_doc/new_site/vvp/vvp-god/tab2.htm.

Federal Service of State Statistics. (2018). Indeksy fizicheskogo obiema valovoj dobavlennoj stoimosti po otrasljam jekonomiki [Indexes of the physical volume of gross value added by economic sectors]. http://www.gks.ru/free_doc/new_site/vvp/vvp-god/tab12-2.xls

Federal Service of State Statistics. (2018). Indeksy fizicheskogo obiema valovoj dobavlennoj stoimosti po

otrasljam jekonomiki [Indexes of the physical volume of gross value added by sectors of the economy]. http://www.gks.ru/free_doc/new_site/vvp/vvp-god/tab12-1.xls.

Lenin, V.I. (1972). Polnoe sobranie sochinenij v 55 Tomah. Tom 16. Agrarnaja programma social-demokratii v pervoj russoj revoljucii 1905-1907 godov [Complete works in 55 volumes. Volume 16. Agrarian program of Social Democracy in the first Russian revolution of 1905-1907]. Leningrad: Order of the Red Banner of Labor Leningrad Printing House No. 1 "Printing Yard" named after AM Gorky "Soyuzpoligrafroma" under the State Committee of the Council of Ministers of the USSR for Publishing, 200-201.

Uzun, V.Ya. (2012). Agroholdingi Rossii i ih rol' v proizvodstve zerna [Agroholdings of Russia and their role in the production of grain]. Research on the policy of transition of agriculture, No 2, 32.

Khlystun, V.N. (2018). A comment. Viktor Khlystun: a clear, tangible land policy of the state is needed. <http://kvedomosti.ru/news/kommentarij-viktor-xlystun-nuzhna-chetkaya-osyazaemaya-zemelnaya-politika-gosudarstva.html>.

Khlystun, V.N. (2017) Metodologicheskie osnovy razvitija rynka nedvizhimosti: monografija [Methodological foundations for the development of the real estate market: a monograph]. M., 368.

Shagaida, N.I. (2018). The latifundia comes to Russia: <https://www.zol.ru/review/na-rossiyu-nastupayut-latifundii-82430>.

Vershinin, V. V., Murasheva, A. A., Shirokova V. A., Khutorova A. O., Shapovalov D. A., Tarbaev V. A. (2016). The Solutions of the Agricultural Land Use Monitoring Problems. International journal of environmental & Science education. vol. 11, No. 12, 5058-5069.