

Basically, the Total Quality Management (TQM) philosophy and related quality management techniques have contributed to increased competitive performance through increased quality of products or services and cost reductions. An example of these quality management techniques is the ISO 9000 standards on quality management systems. Their scope, institutional infrastructure for certification and the costs and benefits of the implementation of ISO 9000 standards. ISO 9000 standards function as a trade facilitator. They may improve business performance, and they establish a basic framework for further implementation of quality management practices. Consequently, the adoption of ISO 9000 standards is associated with enterprise competitiveness.

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LEGAL PROBLEMS ARISING FROM THE TRANSFER OF FOREST LAND FOR GEOLOGICAL EXPLORATION BY DIGGING BOREHOLES

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Анотація. У роботі проаналізовано правові проблеми здійснення геологічних, пошукових, геодезичних та інших геологорозвідувальних робіт шляхом буріння свердловин на земельних лісових ділянках. Метою дослідження є висвітлення сучасного стану законодавства щодо зміни цільового призначення земель лісгосподарського призначення для здійснення зазначених робіт. У статті розглядаються приклад використання зазначеної категорії земель для проведення цих робіт. При розгляді даної проблематики застосовувалися переважно метод наукового узагальнення, логіко - юридичний та порівняльно-правовий методи. З врахуванням норм національного законодавства та міжнародного права, серед основних законодавчо-обґрунтованих шляхів вирішення запропоновано деякі рекомендації щодо вирішення питання наявної правової колізії по даному виду користування надрами, як складової природокористування.

Annotation. The legal problems of realization of geological surveys, searching, geodesic and other geological survey works by well-drilling on lot forest land are analyzed in the article. A research aim is illumination of the modern state of legislation on conversion of forest land for realization of the indicated works. At consideration of question the method of scientific generalization, logical-legal and comparative-legal methods are used mainly. Taking into account the norms of national and international legislation, among the basic legislatively well-regulated ways of decision some recommendations offer in decision of question of conflict of law on this type for subsoil use as part of environmental management.

Key words: forest land, geological exploration, innovation, land, land use, rules of law.

In practice, there are cases when gas-producing enterprises carry out their activity on forest land plots that are forest-covered with woody vegetation, which impedes the carrying out of this activity. There is a need for felling of forest plantations. The issue of preservation or felling of trees, in the event of a change in the intended use of the forest land on which they are located, is regulated by Art. 58 of the Forest code of Ukraine [2].

A practical example of the use of forestry lands, which are in constant use by state forest enterprises, for, among other things, geological survey, search, geodetic and other exploration works, is the resolution of the Cabinet of Ministers of Ukraine dated 19.06.2006 No. 839 “On the

seizure, granting in constant use and in renting land for public and other needs, coordinating the location of objects and changing the purpose of land” [5]. According to this regulatory document, public joint stock company “National joint-stock company “Naftogaz of Ukraine” has been provided with 0.36 hectares of land for permanent use and 2.24 hectares for lease for a period of 2 years for the construction of a gas well No. 120 of the Berezivsky gas condensate field on the territory of Kharkiv region.

In this way, we have three legal conflicts. The first is the divergent discrepancy between the content of Art. 62 of the Land code of Ukraine (hereinafter the LC of Ukraine), Art. 97 of the Criminal Code of Ukraine [2; 3]. The second – Art. 97 of the Criminal Code of Ukraine contradicts (in line with) the requirements of other, above-mentioned articles of the Criminal Code of Ukraine on issues related to the implementation of geological surveying, search, geodetic and other exploration works by digging boreholes. The third is the content of the actual Article 97 of the Criminal Code of Ukraine and consists in the fact that Part 1 does not refer to any use of land and in Part 6 it is allowed to use one and the same land.

In the vast majority of cases, the permanent user of land parcels is the state forest enterprises for which to carry out the aforementioned works. The property of such enterprise, including the land of forestry, is a state property and is secured by him on the right of economic management. The Forestry Enterprise owns, uses land and other natural resources in accordance with the purpose of its activity and the current legislation. In addition, Article 92 of the Law of Ukraine of Ukraine stipulates that the right of permanent use of land is the right of ownership and use of a land plot that is in state or communal ownership, without a time limit. That is, the person, to whom the land plot of state or communal property is provided for permanent use, has no right to freely dispose of this land plot without the adoption of appropriate decisions by the executive authorities. The rights of permanent forest users are defined by the LC of Ukraine, their list is exhaustive. In accordance with Article 19 of the LC of Ukraine, permanent forest managers are not authorized to dispose of forestry lands in any way, they must, among other things, comply with the land use regime established by the legislation. Land for forestry should be used for forestry (Article 57 of the Criminal Code of Ukraine) [3].

According to Art. 96 of the Criminal Code of Ukraine, land users are obliged to ensure the use of land for their intended purpose [3].

According to Art. 9 of the Constitution of Ukraine, legal order in Ukraine is based on the principles under which no one can be compelled to do what is not provided for by law [1].

In accordance with Article 1 of the Law of Ukraine of June 19, 2003 No. 963-GU “On State Control over the Use and Protection of Land” [4], the unauthorized occupation of a land plot - any actions that indicate the actual use of land in the absence a corresponding decision of the executive body or local self-government body on its transfer to the property or provision for use (lease) or in the absence of the commission of the land plot, except for actions that are lawful in accordance with the law. According to Article 164 of the Criminal Code of Ukraine, land protection includes the protection of land from unjustified exclusion for other needs. The use of land not for the intended purpose is the reason for the termination of the right to use the land plot (Article 141 of the Criminal Code of Ukraine) in the manner prescribed by Article 144 of the Criminal Code of Ukraine [3].

In the opinion of A. G. Martin, the special feature of the provision of land during the conduct of intelligence operations should be the possibility of establishing and registering a land servitude without preliminary registration of a land plot on the lands of state and communal property not provided for use. However, the boundaries of the area to which the right of attorney extends must be determined by the relevant technical documentation and registered with the State Land Cadastre [6, p. 27]. But it is right to agree with the position of the scholars that the right of land servitude and the right to use land plot for conducting intelligence work differ from each other [7, p. 62-63; 8, p. 140-141].

After analyzing the current legislation on obtaining the right to use or lease land for the purpose of carrying out appropriate geological explorations through drilling, it can be noted that an example of a lawful resolution of the issue is the resolution of the Cabinet of Ministers of Ukraine on the seizure, provision for the permanent use and lease of land plots for public and other needs, coordination of location of objects and change of the purpose of land from April 26, 2007 № 681 [5].

However, in order to eliminate certain legal conflicts on this issue, it is necessary:

a) To bring the content of Article 97 of the Criminal Code of Ukraine in line with the requirements of Articles 66, 93, 116, 122, 123, 125 and 149 of this Code [3].

b) To bring the content of Part 1 and Part 6 of Article 97 of the Criminal Code of Ukraine into compliance.

c) Bring the content of Article 62 of the LC of Ukraine in line with the content of the amended (in the future) Article 97 of the Criminal Code of Ukraine [2; 3].

d) Study the European experience on this issue and, if necessary, take appropriate steps to bring national legislation in line with European land legislation.

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