

Artículo de investigación

State support of bioenergy in Ukraine: legal problems

ДЕРЖАВНА ПІДТРИМКА БІОЕНЕРГЕТИКИ В УКРАЇНІ: ПРАВОВІ ПРОБЛЕМИ

Recibido: 12 de septiembre del 2019

Aceptado: 13 de octubre del 2019

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Abstract

The article is devoted to the study of state support in the field of bioenergy production in Ukraine. It is mentioned, that it is still not clear the legal nature of agricultural bioenergy relations. However, it is quite clear that relations on state support of bioenergy production (in terms of production of biofuels from agricultural raw materials) belong to the subject of agroprotective law and are regulated by it. This is due to the fact that: first, the objects of bioenergy relations are biomass and biofuels, which are agricultural products; secondly, the subjects of bioenergy relations are mainly agricultural producers or processors; thirdly, the content of bioenergy relations is in the production and processing of agricultural products. That is, bioenergy relations at the stages of production (formation) of biomass and its processing into biofuels constitute a type of agricultural activity, the state support of which is regulated by agroprotective law. It is revealed that in terms of state support should be taken such measures as: support of processing of actually produced agricultural products by its producer;

Анотація

Стаття присвячена дослідженню державної підтримки виробництва біоенергетики в Україні. Зазначається, що досі не зрозуміла правова природа відносин у галузі біоенергетики сільського господарства. Однак цілком зрозуміло, що відносини щодо державної підтримки біоенергетичного виробництва (у частині виробництва біопалива із сільськогосподарської сировини), безумовно, входять до предмету агропротекційного права та регулюються ним. Це пояснюється тим, що: по-перше, об'єктами біоенергетичних відносин виступають біомаса та біопаливо, які є сільськогосподарською продукцією; по-друге, суб'єктами біоенергетичних відносин переважно виступають виробники сільськогосподарської продукції або її переробники; по-третє, зміст біоенергетичних відносин полягає у виробництві та переробці сільськогосподарської продукції. Тобто біоенергетичні відносини на етапах

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support of creation of agricultural processing cooperatives; support of bioenergy production, which is based on the process of processing biomass into biofuels. Improvement of agroprotective legislation in this area should occur by: a) foreseeing universal legal mechanisms to support processing activities in the Law of Ukraine "On state support of agriculture of Ukraine"; b) addition to the Law of Ukraine "On agricultural cooperation" of agroprotective provisions on agricultural processing cooperatives; c) adoption of the Law of Ukraine "On production and sale of biofuels".

Keywords: Bioenergy, biofuel production, agriculture, biomass, agroprotective law, state support, ecology.

виробництва (утворення) біомаси та її переробки в біопаливо складають різновид сільськогосподарської діяльності, державна підтримка якої регулюється агропротекційним правом. Виявлено, що з точки зору державної підтримки слід вживати таких заходів, як: підтримка здійснення переробки власновиробленої сільськогосподарської продукції її виробником; підтримка утворення сільськогосподарських переробних кооперативів; підтримка біоенергетичного виробництва, в основі якого лежить процес переробки біомаси в біопаливо. Удосконалення агропротекційного законодавства у цій сфері має відбуватися шляхом: а) передбачення універсальних правових механізмів підтримки переробної діяльності у Законі України «Про державну підтримку сільського господарства України»; б) доповнення Закону України «Про сільськогосподарську кооперацію» агропротекційними положеннями щодо сільськогосподарських переробних кооперативів; в) прийняття Закону України «Про виробництво і реалізацію біопалива».

Ключові слова: біоенергетика, виробництво біопалива, сільське господарство, біомаса, агропротекторне право, державна підтримка, екологія.

Introduction

Against the background of the energy crisis in Ukraine, the processing infrastructure of agriculture in addition to the traditional vectors of development receives new opportunities in which the state, society and agricultural producers themselves are interested. In recent years, research in the field of alternative energy, in particular its bioenergy component, has significantly revived in science. The traditional agrarian orientation of the economy of our state quite predictably determines the interest and special attention to the establishment of the functioning of the bioenergy complex, the basis of which will be agriculture. In the agrarian and legal scientific literature, these processes are also reflected, in particular, the thesis about the formation in the system of modern agrarian law of Ukraine of norms regulating such kind of social relations as agricultural bioenergy relations is substantiated (Savelyeva, 2017).

Theoretical framework

Intensive discussions are held concerning legal nature of agricultural bioenergy relations. Opinions are expressed that energy legal relations should be defined as a complex Institute of natural resource law (Romanko, 2014); to allocate the Institute of legal regulation of renewable energy sources in natural resource law (Kishko-Erli, 2010); to allocate intersectoral (complex) Institute of law, which was formed at the intersection of energy, environmental, economic, administrative, civil, financial, customs and other branches of law (Bodak, 2017). In our opinion, the attribution of bioenergy relations to the subject of natural resource law is carried out as if "for the company" with other types of renewable energy sources. The fact is that biomass as an energy source has a completely different legal regime, compared to sources of solar, wind, geothermal energy, etc. and its automatic attribution to natural resources raises questions. The question of the legal nature of these relations deserve further in-depth research in order to build a

perfect legislative regulation. However, relations on state support of bioenergy production (in terms of production of biofuels from agricultural raw materials), of course, belong to the subject of agroprotective law and are regulated by it. This is due to the fact that: first, the objects of bioenergy relations are biomass and biofuels, which are agricultural products; secondly, the subjects of bioenergy relations are mainly agricultural producers or processors; thirdly, the content of bioenergy relations is in the production and processing of agricultural products. That is, bioenergy relations at the stages of production (formation) of biomass and its processing into biofuels constitute a type of agricultural activity, the state support of which is regulated by agroprotective law.

Biofuel production is a strategically important vector of development of processing infrastructure of agriculture in Ukraine. The key process is the processing of biomass, resulting in one of the varieties of biofuels – solid, liquid or gaseous. The legislative and scientific concept of biomass has been thoroughly investigated in the agrarian and legal literature (Rud, 2015; Pastuh, 2015). It should be emphasized that in the aspect of our study we are interested only in the agricultural component of biomass (that is, the features of legal regulation of state support for the production of biofuels from industrial and household waste as possible varieties of biomass, we do not investigate).

Methodology

The research is conducted using general and special scientific methods. Methodological basis for study was a dialectical method that allowed to review the issues in their development and interconnection. Legal nature of agricultural bioenergy relations was considered on the basis of the laws and scientific literature analysis.

A comparative method was used to compare European and national approaches to regulation of biofuel production. In analyzing of approaches to legal regulation of relations, connected to biofuel a historical method is also used. The current situation and needs in the field of biofuel production were revealed using dogmatic and legal methods.

Results and discussion

Bioenergy relations are diverse and develop at all stages of biofuel production before its consumption, but in our study we are most interested in only some of them, namely: a) the

formation (cultivation, harvesting, etc.) of biomass; b) the processing of biomass into biofuel; c) the direct consumption of biofuel; d) the processing of biofuel into electrical energy.

The formation of biomass (cultivation of special energy crops, the formation of residues or wastes of agricultural production, etc.) currently has no special legal mechanisms of state support. Considering this issue in retrospect, it is necessary to recall The program of development of diesel biofuel production, the main emphasis in which was placed on the formation of the raw material base for the production of biodiesel from rapeseed. Such steps of the rulemaker are quite risky and should be carefully weighed. After all, the biggest problem is the legislative provision of a balanced combination of environmental, economic and social interests in the purposeful production of biomass for biofuels. T. A. Kovalenko, for example, points out the need to establish legal restrictions on uncontrolled cultivation of energy crops in his works (Kovalenko, 2010). At the same time, there are opinions in the literature about "the introduction of an economic and legal mechanism to stimulate the cultivation of energy crops in order to increase the production of biofuels" (Pastuh, 2015), as well as that "the cultivation of technical crops for their further processing into biofuels requires legal regulation and state support" (Gorda, 2008). Some scientists justify the need for measures to enhance the cultivation of energy willow, citing arguments of an environmental nature (for example, the possibility of planting polluted and unproductive lands, for which energy willow is a natural filter for soil purification, etc.) (Fedorovych, 2015). It should be noted that the European legislation uses a legal mechanism aimed at solving the problems of correlation of environmental, energy and social interests during the production of biofuels. For example, the implementation of the biomass persistence criterion in the EU provides that biofuels and biofuel liquids can be produced from raw materials that are grown on land of particular importance for the conservation of biological diversity (Pastuh, 2015).

A very important point should be taken into account in the aspect of the formation of the legislative framework for support at the stage of biomass formation. Given the presence of large areas of fertile land combined with low efficiency of land and environmental legislation, there is a serious threat of Ukraine becoming a bioenergy raw material appendage of other countries. For example, the Netherlands proposes to invest heavily in Ukrainian production, in particular, we are talking about ordering the

production of millions of tons of rapeseed and other energy crops necessary for the production of biofuels for this country (Gorda, 2008). Investment interest multiplied by state support for the cultivation of agricultural products for biomass may have a negative consequence in the form of freezing of Ukrainian bioenergy potential at the raw material level.

For Ukraine, it is strategically important to establish the processing of raw materials into biofuels, in order to export not biomass, but a much more expensive product of its processing. This has economic, environmental, social and political consequences, which are worthy of urgent and thorough preparation in Ukraine of the regulatory framework for the provision of state support not so much for education as for biomass processing.

The stage of processing biomass into biofuel is characterized by the need for proper technical and technological support of the process. Therefore, it is to meet this primary need that state support is directed. At the same time, the analysis of the legislation gives grounds to assert that the state support at this stage has only one valid legal mechanism, and it consists in exemption from import duties. Thus, according to art. 282 of the Tax Code of Ukraine when imported into the customs territory of Ukraine or exported abroad from duty exempt: energy-saving equipment and materials, means of measurement, control and management of fuel and energy resources, equipment and materials for the production of alternative fuels or for the production of energy from renewable energy sources, provided that these goods are used by the taxpayer for its own production and if identical goods with similar quality indicators are not produced in Ukraine; materials, equipment and components that are used to produce materials, raw materials, equipment and components that will be used in the production of alternative fuels or energy production from renewable energy sources.

It should be noted that earlier legislation provided for some other legal support mechanisms, which are now not in force, but are of scientific interest. Thus, temporarily until January 1, 2019, machinery and equipment used for the reconstruction of existing and construction of new enterprises from the production of biofuels, which are classified according to the UKT VED codes defined by article 7 of the Law of Ukraine "On alternative fuels", were exempted from taxation by import duty when imported into the customs territory of

Ukraine and placed in the customs regime of import, if such goods are not produced and have no analogues in Ukraine. The order of import of the specified goods was defined by the resolution of the Cabinet of Ministers of Ukraine "On the statement of The order of import into the customs territory of Ukraine of equipment, technical and vehicles used for development of production and ensuring consumption of biological types of fuel " dated May 18, 2011.

Also until January 1, 2019, exempt from VAT operations: a) the supply of machinery, equipment defined in article 7 of the Law of Ukraine "On alternative fuels", on the territory of Ukraine; b) import under codes UKT VED, defined by article 7 of the Law of Ukraine "On alternative fuels", machinery and equipment used for reconstruction of existing and construction of new enterprises from the production of biofuel, if such goods are not produced and have no analogues in Ukraine. The specified urgent restriction is estimated negatively in this connection it is offered to fix the above-mentioned tax privileges without restriction of term of their action.

A significant support was the exemption of biofuel producers from taxation of profits derived from the sale of biofuels (this direction of support was assumed in paragraph 15 of the podr. 4 p. XX of the Tax code of Ukraine and was supposed to be valid until January 1, 2020, but the Law of Ukraine "On amendments to the Tax code of Ukraine and some legislative acts of Ukraine on tax reform" dated December 28, 2014 these benefits prematurely canceled). History also knows cases of providing support in the form of interest compensation on loans (credit subsidy). In the Order of use of funds envisaged in the state budget for financial support of business entities of agro-industrial complex through the mechanism of cheaper loans and compensation of lease payments, the approved resolution of the Cabinet of Ministers of Ukraine dated August, 11, 2010 No. 794, provided a compensation in medium- and long-term loans attracted by agricultural enterprises and agribusiness entities for the acquisition, including on the terms of financial leasing, of fixed assets for agricultural purposes of domestic and foreign production, analogues of which are not produced in Ukraine, in particular equipment for the processing of agricultural waste and raw materials, wood harvesting waste, including biofuels and other alternative energy, in accordance with the list approved by the Cabinet of Ministers of Ukraine.

Although this Order No. 794 is now in force, its provisions are ineffective. This is due to the fact that in 2012 the budget program lost its independence and was included as a separate direction of the budget program "Financial support for activities in the agro-industrial complex". The low efficiency of such a program is illustrated, in particular, by the fact that in 2018 only 5 million UAH were allocated for this program, which has 15 directions.

Biofuels formed as a result of biomass processing, depending on their characteristics, can either be used directly (for example, in the form of fuel for transport, in the form of pellets for heating rooms, etc.), or further processed into electrical energy. If the agrarian nature of the relations of production and processing of agricultural products for the creation of biofuels is not in doubt, the need to study the legal relations of state support at the stage of consumption of biofuels requires a separate explanation. The matter is that stimulation of consumption of biofuel is indirect support of its production, considering that such product is rather new in the market of Ukraine in comparison with traditional types of fuel and often demands special technical conditions of use. The support provided to consumers during the transition to the use of biofuels is an effective step to support its producers, who receive a market for their products.

In connection with the above, the direct consumption of biofuels is supported by the state through legal mechanisms of exemption from import duties and VAT for the supply of machinery and equipment that run on biofuels. Also, the Customs code of Ukraine provides for exemption from tax duty import of technical and transport vehicles, including self-propelled agricultural machines, powered by biofuels and classified according to the codes according to the UKT VED of foreign economic activity, defined by article 7 of the Law of Ukraine "On alternative fuels", if such goods are not produced in Ukraine. Limited government support for the direct use of biofuels is reflected in the slow development of such relations. Most often, this use is manifested in the use of biofuels produced in their own economy (for example, in the research farm "Velikosnitinske" Fastovsky district due to biogas heated a significant number of industrial and social facilities (Yermolenko, 2015)). In Ukraine, large economic structures on the territory can afford the production of biodiesel, and until the state creates favorable conditions for trade in biodiesel, such agricultural enterprises can use it for their own needs. It will

allow to provide the economy with fuel, not to depend on fluctuation of prices for fuel and lubricants, to save considerable means, having refused purchase of mineral diesel fuel. At the same time, world practice shows examples of purposeful state policy in this area, which gives significant results (Ardelyan, 2009). Thus, Brazil in the near future plans to transfer 80% of transport to ethanol, which is obtained from sugar cane (Siryachenko, 2014).

The second option of further processing of biofuels in order to obtain electricity now concentrates the greatest state support, which is to provide a "green" tariff. "Green" tariff set by the National Commission, carrying out state regulation in the energy and utilities for electricity produced at electric power facilities, including commissioned construction stages of power plants (launching complexes) of alternative energy sources. According to the law of Ukraine "On alternative energy sources", the "green" tariff for economic entities that produce electricity from biomass is set at the level of the retail tariff for consumers of the second class of voltage as of January 2009, multiplied by the coefficient of the "green" tariff for electricity produced from biomass. "Green" tariff for economic entities that produce electricity from biogas generated from biomass as a result of biological decomposition, biogas, obtained by forced biomass gasification, biogas, derived from places or objects on which the operations of storage and/or disposal of waste generated from the biomass as a component of industrial or household waste, set at the retail tariff for consumers of second voltage class for January 2009, multiplied by the coefficient of the "green" tariff for electricity produced from biogas.

Scientists studying the problems of state support for bioenergy, put forward proposals to improve the legislative framework for the provision of "green" tariff. Thus, the legal literature justifies the need to introduce a special increasing coefficient for the "green" tariff on biofuels for agricultural producers (Obolenska, 2016), but this formulation is not quite correct, because the "green" tariff is not provided for biofuels, but for electric energy produced from it. V. V. Latysheva also points to the need to encourage agricultural producers to produce electricity from biomass (Latysheva, 2015). The problem is that the procedure for obtaining a "green" tariff is considered too bureaucratic, as a result of which it is advisable for agricultural enterprises to use energy for their own needs, creating a closed cycle of using energy resources, and not to sell it to third parties, that is, not all biofuel producers

reach the state support in the form of obtaining a "green" tariff. For example, 8 out of 10 oil extraction plants of the domestic agricultural holding "kernel" use sunflower husk as fuel for the production of steam and electricity for their own needs (Kulchiy, 2015).

The law of Ukraine "On alternative energy sources" also regulates the two-vector legal mechanism of state support, aimed at stimulating producers of electricity from biomass, and to support the development of domestic engineering. We are talking about the mechanism of surcharge to the "green" tariff for compliance with the level of use of Ukrainian-made equipment at the power facilities commissioned from July 1, 2015 to December 31, 2024, which produce electricity from alternative energy sources. The surcharge is a fixed percentage surcharge to the "green" tariff, proportional to the level of use by the business entity at the relevant object of electricity equipment of Ukrainian production (5-10%).

It should be noted that state support for domestic engineering has also weakened. For example, the Tax code of Ukraine provided for exemption until January 1, 2020 from taxation of profits of manufacturers of machinery and equipment for the manufacture and reconstruction of technical and vehicles that consume biological fuels. However, this provision was excluded by the Law of December, 28, 2014.

If we analyze the current state support at all stages of bioenergy relations, it becomes noticeable that directly biomass processing support is provided in a critically small amount. The main support is directed to the production of electricity from biomass, and other options for the production and use of biofuels remain out of the field of view of agroprotective legislation. Also, a characteristic feature of the legislation now is the lack of any specialization in relation to the subjects of biofuel production. The study of contemporary agrarian-legal scientific literature allows to identify three priority options legal processing of biomass into biofuel: a) individually with agricultural producers; b) collectively, agricultural producers on the basis of enterprises in the agricultural processing cooperative; c) collectively on the principles of enterprises in the energy cooperative.

S. A. Obolonska exploring legal regulation of biofuel production the agricultural producers, allocates the following of its features: a) the lack of a single comprehensive legal act for the production of biofuels are called producers; b)

the presence of a significant number of sub-legal acts that have conceptual significance; c) the neglect of the laws of the specifics of the implementation of production and economic activities of agricultural producers for the development of this product; d) declarativity of a significant number of existing regulations. Separately, the researcher points to the lack of legal regulations aimed at stimulating the production of biofuels by agricultural producers. Scholar offers to enhance biofuel production to be approved by the Cabinet of Ministers of Ukraine the State program of agricultural producers of biofuels in the period up to 2025, which will provide the near term actions for the development of production these producers of liquid and solid (in crop production) and natural (animal) biofuels (Obolonska, 2016). Other researchers also argue the need to support individual agricultural producers seeking to produce biofuels. For example, Y. V. Rud proposes to provide state financial support to farms that intend to purchase equipment for the production of energy from renewable sources. Of course, the establishment of biomass processing by agricultural producers in the form of subsidiary enterprises is a possible way of development, which should be supported by the state. It should be borne in mind that such activities for small producers will not scale and will mainly focus on energy conservation and savings. The Association of agricultural producers for the joint production of biofuels gives quite different opportunities and opens up great prospects. Therefore, urgent question of the use of the legal form of a processing cooperative to carry out activities for the production of biofuels. As follows from the definition of agricultural processing cooperatives provided by the Law of Ukraine "On agricultural cooperation", the legislator focuses on the creation of a new final product, the list of possible varieties of which is not exhausted. At the same time, it is indicative that the legal definition of agricultural processing cooperatives does not contain an indication of the mandatory production of agricultural products. The main thing, judging by the construction of the legislative definition – is the implementation of the processing of agricultural raw materials. Consequently, agricultural processing cooperatives may be producers of biofuels of various types resulting from the processing of agricultural raw materials owned by members of such cooperatives. In case such members are not competent enough in managing of their property, they can transfer it to fiduciary ownership (Nekit K., Shershenkova V., Voloshyna S., 2019).

The use of agricultural processing cooperative as an organizational and legal form of bioenergy production has a number of advantages. First, agricultural processing cooperative in accordance with article 9 of the Law of Ukraine "On agricultural cooperation" enjoys the rights of non-entrepreneurial business entity, which affects the taxation regime of activities. Secondly, the creation of an agricultural processing cooperative does not require a combination of other spheres of activity of members of such a cooperative, that is, they retain their economic independence and undertake only to participate in the activities of the processing cooperative in the forms established by the Charter, rules of intra-economic activity and agreements on economic participation. Third, the generation and use of economies of scale allows you to create the appropriate material and technical base at the beginning of the activity, and then - to produce large quantities of biofuels. Such approach allows to join bioenergy production even to small farms which independently would not have an opportunity to form the necessary processing enterprise. Also, this aspect affects the stable implementation of the produced biofuels, which is explained by the facilitated logistics system of a large enterprise. Fourthly, the formation of an agricultural processing cooperative aimed at the production of biofuels has a common goal for all agricultural service cooperatives – to increase the income of members and reduce their costs. The construction and functioning of bioenergy production in Ukraine requires significant start-up and ongoing investment, which is possible due to the joint investment of members of the processing cooperative (Grigorieva, 2014).

Thus, the analysis of cooperative legislation allows positioning agricultural processing cooperatives as subjects of biofuel production in Ukraine. At the same time, it should be noted that such cooperatives can be considered as agricultural producers and have an appropriate legal regime in accordance with part 2.15 of article 2 of the Law of Ukraine "On state support of agriculture of Ukraine".

While agreeing that the legal form of the agricultural processing cooperative is successful to carry out activities for the production of biofuels are agricultural producers, S. A. Obolonska indicates a deterrent to the use of such associations in bioenergetica proceedings, namely: the requirement in clause 1, article 9 of the Law of Ukraine "On agricultural cooperation", according to which agricultural service cooperatives provides services only to its

members. The scientist is convinced that in order to stimulate the use by agricultural producers of the legal form of agricultural service cooperative for the production of biomass in the above regulatory requirement should be fixed that such a restriction does not apply to the provision of services for the production of biofuels from biomass to those entities that are not members of this cooperative (Obolonska, 2016).

The idea that the cooperative is the optimal organizational and legal form of biofuel production is recognized by other scientists. Thus, developing this idea, A.V. Pastukh in his dissertation research argues for the need to introduce a new organizational and legal form-energy cooperative. The scientist believes that the direct economic activity of the energy cooperative in Ukraine should include, in particular, the construction of generating facilities, connection to the network, obtaining a license and selling electricity on the Wholesale electricity market of Ukraine at a "green" tariff. The cooperative should have the right to provide services not only to its own members, but also to other persons, as well as to carry out these activities for profit. Continuing his reasoning, A.V. Pastukh believes that the Law of Ukraine "On cooperation" should be amended, which should ensure a special legal status of energy cooperatives (the ability to operate without the approval of tariffs, receiving other benefits) and state incentives for the creation and operation of energy cooperatives (by providing compensation for part of the cost of construction of heat networks and installation of generating equipment) (Pastuh, 2016).

In our opinion, the energy cooperative, the legal features of which are depicted by A.V. Pastukh, is a possible option for the development and evolution of relations for the production of biofuels. However, in modern Ukraine, such cooperation, which requires the use of agricultural producers, the local community, individual consumers, is not just difficult to achieve, such an idea is utopian. On the other hand, we do not exclude the possibility and expediency of further evolutionary development of agricultural processing cooperatives producing biofuels into such a complex organizational and legal form as an energy cooperative.

Conclusions

The issues of organizational and legal support for the production of biofuels is extremely important, but with its solution, the problem of

stimulating the bioenergy complex will not completely dry up. In particular, there are issues of legislative support of state support for biofuel production, concerning which there are various proposals in the literature. For example, V. D. Ardelyan proposes to adopt the Law "On the biofuel market» (Ardelyan, 2009), S. A. Obolenska justifies the need to develop the Law of Ukraine "On the production of biofuels by agricultural producers", with the subsequent inclusion in the future of the relevant norms in a special part of the Agricultural code of Ukraine (Obolenska, 2016). Respecting the author's positions mentioned above, we believe that the proposed legislation is too narrowly focused: the first is aimed only at regulating the market (that is, the sale and consumption of biofuels); and the other is focused only on the production of biofuels by a separate group of subjects-agricultural producers. In our opinion, there is a need to adopt the Law of Ukraine "On production and sale of biofuels", which would create a holistic legal regulation of bioenergy relations, taking into account their objective, subjective and substantive specificity. While the production of other types of alternative fuels is generally successfully regulated by economic, natural resource and environmental law, the production of biofuels is regulated to a greater extent by agricultural law as an agricultural activity, and this provides such legal regulation with appropriate specificity. The law "On production and sale of biofuels" should regulate the basic principles of production (formation) of biomass, its processing into biofuels and electricity, as well as their implementation. A separate section should provide for state support to biofuel producers. In our opinion, it is worth stimulating biomass production only when such activities have a scientifically justified positive environmental effect. State support should be provided systematically to entities engaged in biomass processing. For start-up support it is necessary to provide legal mechanisms of preferential crediting for creation of processing capacities. The main support for the activities should be that the agricultural products regime should be extended to biofuel taxation. This will allow agricultural producers, which form subsidiary enterprises for the production of biofuels or unite in processing cooperatives, not to lose their agroprotective legal status.

In addition, it is important to provide some types of organizational state support, for example, the creation and operation of electronic markets for biomass, biofuels and the like. Such rule-making initiatives have already been put forward and discussed in the literature (Pastuh, 2018), but

they should not be isolated, but combined and systematized in the proposed legislation.

Some researchers suggest, in addition to positive incentives, to actively introduce measures of negative incentives for biofuel production by agricultural producers and its consumption (Obolenska, 2016). In our opinion, any negative stimulus in this area is inexpedient and can become harmful in the strategic perspective. Agriculture reacts more acutely to any administrative Vice than other sectors of the economy, so the introduction of mandatory requirements, quotas, etc. in order to support the production of biofuels should not become the main instruments of state influence, despite their attractiveness and low cost. We fully share opinion of Y. M. Rud, who believes that the introduction of ways to negatively stimulate the use of renewable energy sources is advisable to introduce only when producers and consumers of "green" energy will have a real choice – to use renewable or traditional energy some types of organizational state support, for example, the creation and operation of electronic markets for biomass, biofuels and the like (Rud, 2015). Such rule-making initiatives have already been put forward and discussed in the literature , but they should not be isolated, but combined and systematized in the proposed legislation.

Therefore, relations on state support of processing of agricultural products have several relatively independent vectors: support of processing of actually produced agricultural products by its producer; support of creation of agricultural processing cooperatives; support of bioenergy production, which is based on the process of processing biomass into biofuels. Improvement of agroprotective legislation in this area should occur by: a) foreseeing universal legal mechanisms to support processing activities in the Law of Ukraine "On state support of agriculture of Ukraine"; b) addition to the Law of Ukraine "On agricultural cooperation" of agroprotective provisions on agricultural processing cooperatives; c) adoption of the Law of Ukraine "On production and sale of biofuels".

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