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## ABOUT ADAPTATION OF THE UKRAINIAN LEGISLATION ON PRODUCTION AND SALES OF MILK AND DAIRY RAW MATERIAL O THE EU LEGISLATION

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### SUMMARY

This article is dedicated to issues of adaptation of legislation between Ukraine and European Union in manufacturing of milk and raw milk products. Specific questions are regulated by a lot of regulations, but availability of discrepancy by a lot of statements national regulation do not match with European legislation is observed today. This creates a problem for the dairy exporters, and slows integration. It directly effects the European Union's interest in Ukraine. The author conducted a comparative analysis of legislative support milk and raw milk Ukraine and the EU proposed a number of measures to address the negative effects of legislative activity in this area. Separately, emphasizes the fact that the current legislation should include provisions that would encourage investment in the establishment of integrated structures with a closed production cycle.

**Key words:** milk, raw milk, quality and safety of agriculture products, adaptation, European Union.

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Статья посвящена проблемам гармонизации законодательства Украины и ЕС в сфере производства и реализации молока и молочного сырья. Данные вопросы регламентированы большим количеством нормативных актов, однако сегодня наблюдается наличие несоответствия многих положений национальных правовых актов требованиям европейского законодательства, которое предопределяет трудности во время экспорта молочной продукции, замедляет интеграционные процессы, связанные с европейским выбором Украины. Автором проведен сравнительный анализ законодательного обеспечения производства молока и молочного сырья Украины и ЕС, предлагается ряд мероприятий по устранению негативных явлений в законотворческой деятельности в этой сфере. Отдельно акцентируется на том, что в действующем законодательстве целесообразно предусмотреть нормы, которые бы стимулировали инвестирование в создание интегрированных структур с замкнутым производственным циклом.

**Ключевые слова:** молоко, молочное сырье, качество и безопасность сельскохозяйственной продукции, гармонизация, Европейский Союз.

*Raising of problem. According to the European Union legislation, adaptation of Ukrainian agriculture legislation in milk, milk products manufacturing is required for Ukrainian integration in to the European Union, World Economic Society and investments opportunities for the Ukrainian agriculture sector [1, c. 71-89].*

**I**t is hard to redefine the function of milk-processing sector from the beginning and through the development of Ukrainian economy. Development of milk industry depends, first of all, on milk manufacturing. The milk industry, despite of high resource costs, due to specific technological manufacturing features, technological backwardness, shabbiness of equipment, and ineffective management, plays a major role in providing valuable food for people. Creating high market, demand of high

quality products, is the main task for milk industry. Manufacturing and consumption of milk has become more popular.

There is long time market research of milk manufacturing in Ukraine and abroad. Top milk countries-producers are increasing rates of manufacturing and have been increasing its volumes by 1,8% for the past three years. There are only five countries and Ukraine is one of them, who are refusing livestock and milk production stable. Therefore, starting in 2011 cow stock in a number of firms had



been reduced to 2,3% and milk volume manufacturing had been reduced to 1,8% [2, c. 3].

It is obvious, that it is necessary to change the approach to maintaining milk business in the country in accordance with the world trends, because, unlike foreign business, national milk branch of agriculture department remains in the same predicament.

Ukrainian involvement in world economy requires increasing competitiveness between national agriculture enterprisers, the main goal of which is a high quality product. Experts have already paid attention to deterioration of agriculture products, not once for the last time. This issue didn't avoid the milk industry [3, c.43-49].

On this side, become acute issues of adaptation of agricultural legislation of Ukraine, according to the EU legislation, securing it with European legislation on milk and raw milk to ensure the production of competitive products of animal origin.

Therefore, the goal of this article is evaluation of current Ukrainian legislation on milk and raw milk manufacturing, due to adaptation conditions of national legislation in keeping with international rules. And purposes formation about legislation improvement in this area.

State of research. It is not only because of the theoretical interest, but it also has practical significance for the effective operation, development of competitive agriculture and agricultural markets in Ukraine. Some legal issues of harmonization and adaptation of agrarian legislation of Ukraine to the EU legislation are reflected in the writings of such scholars as: V. M. Ermolenko, T. A. Kovalenko, V. K. Mamutova, S. Marchenko, E. A. Pogribnyi, A.A. Polivodskyy, V. I. Semchyk, A. M. Stativky, Y. S. Shemshuchenko, I. A. Shumilo, V.Z. Yanchuk and others.

Actuality of research theme. A. I. Bogdan conducted integrated research on agricultural adaptation of Ukraine's EU law requirements, regarding the production of certain agricultural products of animal and vegetable origin thesis [4]. However, these works relate primarily identifying characteristics and regulation patterns of social relations of agricultural production in Ukraine. Given circumstances provide relevance of this study.

Exposition of basic material. Integration into the European Union is one of the priorities of the Ukrainian foreign policy. Harmonization of the legislation is currently objectively necessary step to prepare for entry into the European Union. After analyzing the provisions of the Law of Ukraine «On the Fundamentals of State Agricultural Policy for 2015» dated 18 October 2005 [5], we see that we need to harmonize regulations and requirements of technical regulations and standards in the production of milk and raw milk with international standards quality is a priority for the state agricultural policy.

In particular, in paragraph 3 of Article 4 of the Act stated that the main focus of problems, forming markets of agricultural products and food, is to improve the legal and institutional framework, and economic support of the participants in this markets, including the integration of Ukraine into the European Union and the global economic space.

Let's analyze the definition means «adaptation» and problems directly related to the provision of this process. The term «adaptation» appeared in the texts of Ukrainian legal acts upon ratification of the Agreement on Partnership and Cooperation between Ukraine and the EU. Conformity achievement of national legislation with EU in the priority areas is one of the requirements of this international treaty.

M. Rabinovich said that the initial phase of adaptation of the Ukrainian legislation with the European is unification of terminology. A clear conceptual category is very important, if legislator seeks unification, harmonization or convergence of legislation, compliance with European standards and traditions. Developing a sustainable system of legal concepts and terms is not simply the result of scientific research, as a prerequisite, one of the priorities of legal reform. Only such a system can provide an approximation of legislation, its uniform interpretation and correct law application. Specification of the «adaptation» concept belongs to the terminological problems [6]. In domestic legal doctrine and practice, this concept is also often referred to «harmonization», «implementation», «approximation» and so on.

Using the legal category of «adaptation» is not inherent in acts of

higher legal force, and less common in the national legislation as a whole, but is determined by a set of subordinate regulations. In particular, adaptation – the process of adjusting legislation states – members of the European Union under the EU legal acts, including directives that are binding on states – the EU and require these countries to bring their national legislation into line with the directives [7]. A more succinct definition governs the adaptation process of bringing national standards in line with EU standards. [8]

Turning to the analysis of Ukraine's Legislation with EU legislation in the regulation of the milk market, you must specify that the dairy industry is one of the priority sectors of the food industry in Ukraine. Milk is important in the diet of the Ukrainian population – enriched diet of animal protein, and the economy as a whole – is the source of the State budget. In recent years, production of milk and raw milk is 14-15% in the value of gross agricultural output. Relationships that occur during production, transportation, processing, storage, sale, importation into the customs territory and export from the customs territory of Ukraine milk, raw milk and dairy products are regulated by the Law of Ukraine «On Milk and milk products» dated June 24, 2004 [9]. This law principles of state policy to ensure the quality and safety of milk and dairy raw material requirements for packaging and labeling of milk (in particular, the fact that the packaging and packaging for raw milk must be made of materials that may be used by the central body of executive power on health), veterinary and sanitary requirements for the production of milk, raw milk, etc.

Validity of the Law of Ukraine «On milk and milk products» shall apply to milk, raw milk and dairy products. Determination of milk meets a similar definition contained in Council Directive 92/46/EES [10], but for other definitions and range of products covered by the regulation of the milk market, some existing differences in national legislation and EU legislation. In particular, the Law of Ukraine «On Milk and dairy products» list of such products is not defined and understood as dairy products in which raw milk is not less than 50% of the total composition of the product. It is difficult to identify products that should be



attributed to the dairy, and does not meet the requirements of Part XVI of Annex I to Regulation (EU) № 1234, which clearly defines the products covered by the common regulation of the market in milk and milk products [11]. In addition, there are some contradictions between the other definitions contained in the Law of Ukraine «On milk and milk products» and the definitions contained in Council Directive 92/46/EES.

As could be seen, the current controversy regarding the understanding of enterprises operating in the dairy area, approaches to thermal processing of milk, the nature of raw materials for the manufacture of dairy products. Thus, the adaptation of national legislation to the «acquis communautaire» makes it necessary, first of all, a clear definition of the products covered by the regulation of the market in milk and milk products, harmonization of definitions with those given in Regulation (EC) № 1234, and Council Directive 92/46/EES, that has to find its consolidation in the Law of Ukraine «on Milk and milk products».

Another problem in terms of adaptation of national legislation with EU law, is to bring the Law «On Milk and Dairy Products», and the requirements of the standards of quality and safety of milk and raw milk. The evaluation of control of veterinary and sanitary services over the production and processing of dairy products for export to the EU, held in 2010, experts found that most of the provisions of the Programme of dairy industry in Ukraine in 2015 to improve the quality of raw milk have practical implementation, namely:

- control over the production of raw milk in Ukraine put on veterinary and sanitary-epidemiological service, but the legislation lacks clear delineation of responsibilities and methods of coordination between the two services;
- considerable authority, resources, experienced and qualified staff of these services are not always used effectively;
- veterinary services take no action in case of unsatisfactory bacteriological results in raw milk, and not performing any procedures to eliminate unsatisfactory results;
- approval of export enterprises is based on the legislation of Ukraine, but not adequate to the requirements of

Article 4 of Regulation (EU) № 853/2004. Companies are considered as integral objects, even when the shops are located in different areas. Departments with poor structure and welfare facilities allowed to export, despite the flaws, even if those flaws were discovered by the competent authority and requested corrective action;

- a system of farms registration, animal identification and animal movement control is satisfactory in Ukraine, but the elimination of tuberculosis program, not fully comply with the relevant EU requirements and guarantees for dairy milk products used only on the number of officially free of tuberculosis are absent;

- there is evidence of violations of hygienic conditions while a cleaning, cooling, storage and transportation of raw milk in farms and raw milk collection points (according to Regulation (EU) № 853/2004, compliance with these criteria was tested during an official control);

- hygienic standards for dairy enterprises and their separate departments, ranging from excellent (very good structure, conditions of the premises and equipment) to acceptable (old structures and equipment were in good condition or successfully changed and renewed);

- the study of water used in dairy farms and enterprises offered for export to the EU did not meet the requirements specified in Annex I to Council Directive 98/83/2S [12]. Requirements for packaging and labeling of raw milk laid down in Art. 5 of the Law «On milk and milk products» [9] is also related to quality and safety. So, packaging for raw milk must be made of materials approved for use by the central executive authority on health care. Packaging and labeling of raw milk are carried out in accordance with the legislation of Ukraine. You may not use names of dairy products in their product names and trademarks, if these products are manufactured using raw materials of non-dairy origin. Other provisions not take into account the requirements of Annex XII to Regulation (EU) № 1234, under which such products are products derived exclusively from milk, and substances used in their manufacture may be added provided that the latter are not used to replacing, in whole or in part, any element of milk [11].

Demonstration of compliance with quality and safety of milk and raw milk

according to the procedure established by the legislation of Ukraine. In the production of dairy products may not use fats and proteins of non-dairy origin and any stabilizers and preservatives. Raw milk imported into the customs territory of Ukraine shall be subject to control, under the laws of Ukraine. Requirements for quality and safety of milk after approval shall be published in the media central authority on agricultural policy.

Retirement, recycling, destruction or continued use of milk and dairy raw materials, that do not meet the requirements established by law, conducted in the manner prescribed by law. Milk and dairy raw materials that do not meet the requirements and can not be returned to the circulation through decontamination (neutralization), recycling, or destruction must be taken in the manner prescribed by law.

Technological equipment, related materials and vehicles, which are transported and stored milk and raw milk must be made of materials approved by the central executive authority on health care for its purpose, and contact with foodstuffs [13, p. 19].

The most problematic place in terms of compliance with European legislation today is the problem of determining the requirements for procurement of milk, because, although State Committee of Veterinary Medicine, Ministry of Agrarian Policy of Ukraine on April 20, 2004 № 49 Rules approved veterinary-sanitary examination of milk and milk products and requirements for their implementation, establishing veterinary-sanitary requirements for milk and milk products, except industrial production realized by various entities, owned by direct connections (dairy processors, catering etc.) and on sale at markets, national demands, acceptance of raw milk does not meet certain requirements in Council Directive 92/46/EES on June 16, 1992. Even preparing to join the WTO, Ukraine has a number of commitments, including those, related to amendments to national law, regarding increasing security requirements to food of animal origin.

As part of these changes were made in the new version of the Law of Ukraine «On the safety and quality of food», which prohibits sale and circulation of raw milk and cheese production in the domestic



agricultural markets. According to the final provisions of the law these rules have come into effect from 1 January 2010 [14].

However, we must consider the fact that today rural residents are over 14.5 million citizens of Ukraine. Thus according to Derzhcomstat population contained more than 4 million head of cattle, including nearly 2.3 million cows, representing respectively 69.4 and 78.3% of the total cattle numbers. Households produced 79.6% of milk [15]. Limitations of when such production volumes lead to a sharp decrease in motivation and will result in the destruction of cattle herds.

Thus the current situation limits opportunities for the rural population to realize their own milk production undoubtedly, lead to a significant deterioration in both the social and financial situation in the rural areas, as well as jeopardizing food security and creates a real risk of an uncontrolled rise in animal products. Thus, the implementation of these provisions of the law in Ukraine, including its territorial and social characteristics, requires a longer transition period than that determined by law. That is why the Verkhovna Rada of Ukraine postponed enactment of the above provisions on October 22, 2009. For this final provisions of the above law was changed date of entry into force of these rules from «2010» to «2015» year and added the item under which the Cabinet of Ministers of Ukraine has to prepare and adopt an action plan to implement the provisions of Article 33 and 35 of this law with regard to binding international requirements and obligations of Ukraine.

Recently, in Ukraine actively the process of adaptation of national standards that govern the requirements for milk quality of its verification procedures with international and European standards. However, it should be noted that the most problematic area in this direction is the coordination of standards requirements in the procurement of milk, which essentially contradict to European.

Also, today continues Legislative Proposals aimed at improving the existing legislation governing the operation of the milk market. Resolution of the Verkhovna Rada of Ukraine on April 10, 2007 № 918-V adopted the Draft Law of Ukraine «On Amendments to the Law of Ukraine» «On

Milk and dairy products» (for compliance with quality and safety of dairy products parameters are prescribed by law and standards of Ukraine) (registration number 3047) [16]. This bill defines terminology; parameters of quality and safety, packaging and labeling, the rights and obligations of producers, veterinary and sanitary requirements.

For the balance of the milk market, adequately reflect the interests of all participants in the chain production-processing-distribution-realization should develop the market of milk on the basis of integration of all areas of dairy production in view of the major factors of its formation, including product quality, development of new technologies. We believe that the current legislation should include provisions that would encourage investment in the establishment of integrated structures with a closed production cycle.

Conclusions. The foregoing suggests that the adoption of the Law of Ukraine «On milk and milk products» attempted approximation of Ukrainian legislation to EU legislation. However, the provisions of the law do not fully comply with the latest, in particular, it concerns the precise definition of the products covered by the regulation of the market in milk and milk products, matching their definitions with those given in Regulation (EU) № 1234 and Council Directive 92/46/EES, requirements for packaging and labeling of raw milk requirements definition in the procurement of milk. Would be useful to state bodies, first of all, define the legal status of veterinary and sanitary services to avoid duplication of functions and improve coordination between them, raise the level of responsibility of producers of raw milk for noncompliance with requirements, provide the officials involved in the control exporting enterprises, a thorough knowledge on the EU requirements for imports of dairy products from third countries.

Considering these proposals and relevant changes in legislation will not only harmonize national agrarian legislation to EU law, but Ukraine's agricultural sector to the requirements of European and international standards in the production and sale of dairy products, securing its competitive advantage in global markets.

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## ПРОЦЕНТЫ ПО ДЕНЕЖНЫМ ОБЯЗАТЕЛЬСТВАМ (СРАВНИТЕЛЬНЫЙ АНАЛИЗ ПОЛОЖЕНИЙ ГРАЖДАНСКОГО ЗАКОНОДАТЕЛЬСТВА УКРАИНЫ И РОССИЙСКОЙ ФЕДЕРАЦИИ)

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### SUMMARY

The article presents the results of a comparative study of the provisions of the civil legislation of the Russian Federation and Ukraine, the regulatory relationship regarding the payment of interest on monetary obligations. It is stated that the Civil Code of the Russian Federation establishes common interest, which are both pay for the use of else's money, and a measure of responsibility. Civil Code provides that the debtor of the monetary obligation separately pay interest - fee for use of money and interest, which is responsible for the delay in payment of a monetary obligation. It is therefore proposed to reduce this burden by making appropriate changes to the civil legislation of Ukraine.

**Key words:** monetary obligations, interest; fee for use of the funds, responsible for the delay of liabilities.

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В статье излагаются результаты сравнительного исследования положений гражданского законодательства Российской Федерации и Украины, регулирующих отношения по поводу уплаты процентов по денежным обязательствам. Констатируется, что Гражданский кодекс РФ устанавливает единые проценты, которые одновременно являются и платой за пользование чужими средствами, и мерой ответственности. Гражданский кодекс Украины предусматривает, что должник по денежному обязательству отдельно уплачивает проценты – плату за пользование чужими денежными средствами и проценты, которые являются ответственностью за просрочку исполнения денежного обязательства. Поэтому предлагается уменьшить это бремя путем внесения соответствующих изменений в гражданское законодательство Украины.

**Ключевые слова:** денежные обязательства, проценты, плата за пользование денежными средствами, ответственность за просрочку денежных обязательств.

*Постановка проблемы. Денежные обязательства – это наиболее распространенный вид гражданских обязательств. Поэтому установление целесообразного их правового режима и обеспечение формальной определенности правовых норм, которые распространяются на этот вид обязательств, является актуальной проблемой совершенствования гражданского законодательства и в Российской Федерации и в Украине. Исследования процентов по гражданским денежным обязательствам подготовили почву для внесения необходимых изменений и дополнений в гражданское законодательство. Однако остаются нерешенными многие вопросы, касающиеся и совершенствования законодательства, которое распространяется на гражданские денежные обязательства, и практики применения этого законодательства. Поэтому есть основания утверждать, что обращение к проблеме, которая выбрана автором как тема настоящей статьи, оправдывается актуальностью этой проблемы.*

Гражданские денежные обязательства специально исследовали в Советском Союзе Л. А. Лунц, М. М. Агарков, в России – Л. А. Новоселова, Д. Г. Лавров, В. А. Белов, в Украине О. П. Подцерковный, И. М.

Опадчий, О. И. Шаповалова. Большое количество авторов обращались к проблеме денежных обязательств при исследовании более широкой проблематики, а также при подготовке отдельных статей.