

Development of the Russian agricultural law in the context of constitutional reform

Valentina Vladimirovna Ustyukova^{1,2*}, *Daria Vladimirovna Tropina*², *Tatyana Sergeevna Lebedeva*², and *Anastasia Maruanovna Surikova*²

¹Institute of State and Law of the Russian Academy of Sciences, Sector of Environmental, Land and Agrarian Law, Moscow, Russia

²Russian State Agrarian University – K.A. Timiryazev Moscow Agricultural Academy, Department of Law, Moscow, Russia

Abstract. The purpose of the research is to show the self-sufficiency of agricultural law as a branch of law and the need to refer agricultural legislation to the subjects of joint jurisdiction of the Russian Federation and its constituent territories at the constitutional level. During the research, emphasis was placed on legal comparative studies; applied were historical-legal, comparative-legal, formal-legal and other general and special methods of the scientific knowledge. The paper resulted in conclusions from the analysis of the historical and legal development of the policy management of agricultural relations in Russia; the identified features of the constitutional regulation of agricultural relations in foreign countries, as well as the designation of the subject of legal regulation of agricultural law and the specifics of the creation of a regulatory framework in the agricultural sector in the Russian Federation. The novelty of the work lies in the conclusion about the relationship between the separation of agricultural legislation at the constitutional level into a separate industry and the effectiveness of the state's agricultural policy at the federal and regional levels.

Keywords: agriculture, state regulation, agrarian legal relations

1 Introduction

Conventionally, Russia has been considered an agriculture-based country but the state interest in agriculture as a branch of the economy manifested itself gradually. The history of legal regulation of agricultural relations can be traced back to the *Russkaya Pravda* in which there is a mention of the types of land ownership. In 1663, adopted was the Bread Order which regulated the issues of grain production and was in charge of the tsarist arable lands [1]. Peter's reforms had an impact on agriculture in passing, and they mainly concerned the status of the peasants, the enhancement of the title to the nobility's land. In an attempt to adopt the Western European experience, Peter the Great issued a decree on bread harvesting with scythes. Later, there were decrees related to the fertilisation of arable land [2].

After the abolition of serfdom in 1861, from the 1870s to the 1880s, the supply of the inhabitants with food and, first of all, bread began to be regulated. The first act that began to

* Corresponding author: ustyukova.v@yandex.ru

shape the state policy in the field of agricultural production, processing and marketing of products can be considered the National Food Supply Charter [3].

As a separate milestone in the development of agricultural relations, it is common to note the Stolypin land reform is a sequence of measures carried out in 1896-1906 and aimed at reforming land management and optimisation of the peasant economy, as well as shaping the market relations in agriculture. The reform was never completed because of the 1917 revolution. During that period, a special branch of law was singled out in legal science, the peasant law as a “regular presentation of the features of the legislation on peasants” [4].

The 1917 Decree on Land determined the focal point of the Soviet agricultural policy for many years – a revolutionary way of development of all economic spheres, including villages, which manifested itself in the abolition of private ownership of land and putting the focus on collectivisation. In general, the “peasant” orientation can be traced in the 1924 USSR Constitution and 1925 RSFSR Constitution, in which Russia was declared as a workers’ and peasants’ republic [5]. Later, in the 1937 RSFSR Constitution, the status of collective farms was adopted; land relations in the agricultural sector were regulated on the basis that the land occupied by such farms “was assigned to them for free and unlimited use, that is forever” (Article 8). Meanwhile, it was possible to have private farms of individual peasants and handicraftsmen (Article 9). In general, those constitutional provisions are indicative of the national interest in the agricultural production field [6].

The 1978 Constitution of the RSFSR also focuses attentions on the development of collective farms, land ownership etc. In accordance with Art. 10, the collective farm-cooperative ownership, along with the state property, provide the basis for the RSFSR economic system. At the same time, the objective to eliminate significant differences between town and country is set; top attention is attached to the industrial development of agriculture as well as social and cultural development issues in the village (Articles 19 and 22) [7]. From the above, it may be concluded that elements of the national agricultural policy were consolidated at the constitutional level.

The appearance in the Constitution of the Russian Federation of an amendment on the classification of agriculture as a joint jurisdiction of the Russian Federation and its constituent territories made us think again about the importance of such a branch of the Russian law as the agricultural law, which is a complex industry that has its own subject and sources of legal regulation of public relations. However, not all legal scholars are inclined to recognise agricultural law as an independent branch of law and focus, inter alia, on the insufficient attention of the legislator, both domestic and foreign, to consolidation the foundations of the legal regulation of relations in the field of agriculture at the constitutional level, which determined the hypothesis of our research.

2 Methods

The methodological basis of the research is provided by the general, general-scientific and private-scientific methods of cognition used by legal science in the object-subject sphere of cognition of the general theory of law. During the research, emphasis on legal comparative studies was placed; and applied were historical-legal, comparative-legal, formal-legal and other special methods of scientific knowledge.

3 Results and discussion

After the breakup of the USSR, the Russian Federation embarked on a new developmental pattern; unfortunately, the authors of the 1993 Constitution did not take into account the importance of agricultural production for the country, therefore, there is no mention of either

agriculture or agricultural legislation in its original text. But it cannot be said that agricultural relations did not fall into the sphere of constitutional and legal regulation at all. Agricultural relations are complex and include land, labour, property, organisational and managerial relations, the legislation of which is attributed to the subjects of joint jurisdiction of Russia and its constituent territories.

In 2020, in clause “д”, Part 1 of Art. 72 of the Constitution of the Russian Federation, a mention of agriculture as a subject of joint jurisdiction appeared, but this did not entail the introduction of an addition to clause “к” on the agricultural legislation, although it would be logical to use these categories in a coordinated fashion. At the same time, the very fact of the appearance of this amendment allows us to look at the development of agricultural law with cautious optimism. Moreover, the connection between the constitutional regulation of relations in the agricultural field and the effective functioning of this sector can be traced in foreign experience.

Thus, in the Constitution of the People’s Republic of China, Article 8 “Agriculture” is included in the first chapter “Basic Provisions”, in fact being the basis of the country’s constitutional system. This article establishes a two-tier economic system, various forms of cooperative farming based on collective property, workers’ rights in agriculture, state protection of the rights and interests of economic organisations, and support for the development of collective farms [8]. This state agricultural policy enables China to rank highest in the world in terms of agricultural production.

In India, the largest agricultural power with a federal structure, the Constitution places agriculture, including the agricultural education and research in the field of agriculture, pest and disease control of crops under the jurisdiction of the constituent territories (states) [9].

The Constitution of Brazil, one of the three world leaders in the export of agricultural products, places the promotion of agricultural production and the organisation of food supply under the joint jurisdiction of the federation and its subjects [10].

The Federal Republic of Germany, one of the leaders in Europe in agriculture, constitutionally establishes the promotion of production in agriculture and forestry, food supply, import and export of agricultural and forestry products, fishing on the high seas and in coastal waters as a competing (joint) competence [11]. The mention of the state regulation of agricultural relations can also be found in the constitutions of Austria, Switzerland, Albania, Afghanistan, Malaysia, Moldova, the Republic of Belarus and other countries.

It is also worth noting that agricultural law in the United States of America has evolved through its integration into the traditional law curriculum. In addition, agricultural law at the undergraduate level is taught by government officials and practicing agricultural lawyers [12].

The above examples allow for the conclusion that the consolidation of the foundations of legal regulation of relations in the field of agriculture in regulatory documents of the highest legal force strengthens the state agricultural policy and, as a result, contributes to the development of agricultural law.

In many overseas countries, agricultural law is recognised as an independent branch of law, the legal nature of which is determined by its complexity, which manifests itself in the form of “presence” in it of private and public law elements in their unity, interdependence and interaction [13].

In Russia, the question of the formation of the branch of agrarian law was raised in the 1970s (it is true, it was then called “agricultural law” but the essence of this does not change) [14]. The works of Kozyr and scientists, who share his point of view, have convincingly proved the need to separate this complex dedicated sector in the system of Russian law. On its basis, it is possible to radically transform the economic agricultural relations and social development of the village, the legal regulation of which now also falls within the scope of agrarian/agricultural law [15].

By supporting the position of the importance of highlighting this complex branch in the legal system, it is believed that taking into account the constitutional amendments, the subject of agricultural law can be attributed to social relations arising between the Ministry of Agriculture, its regional bodies and agricultural producers, legal regulation of agricultural activities (breeding, seed production, veterinary medicine, etc.), contractual relations in agriculture, the legal status of agricultural producers, the legal regime of agricultural land and some other issues. At the same time, the institute of state support to agricultural producers today is the subject of legal regulation of exclusively agricultural law.

The “own” (sectoral) sources of agricultural law include, first of all, the federal law “Development of Agriculture”, in which an attempt was made to solve the main problems and regulate the key actual social relations associated with the development of agriculture [16], as well as other complex federal laws (“Agricultural Cooperation”, “Peasant (Farm) Economy”, “Plant Quarantine”, etc.). Agricultural relations are also regulated by regional legislation.

The sources of agricultural law should also include multilateral international trade agreements, the Agreement on Agriculture of the World Trade Organisation of April 15, 1994 [17] and the Treaty on the Eurasian Economic Union of May 29, 2014 [18], which establish the rules for trade in agricultural products between states, veterinary and phytosanitary requirements for those products, etc.

The creation of a large array of legislation regulating agricultural relations was taken into account when carrying out the constitutional reform. As mentioned earlier, in the Constitution of the Russian Federation, the agricultural sector appeared as a subject of state administration. It appears that these changes will help build a unified approach to the management of the agricultural sector and improve its legal regulation based on constitutional provisions.

The agricultural policy currently pursued by Russia allows one to refute the position of some legal scholars that agricultural law does not have an independent subject of legal regulation [19], which cast doubt on the existence of agricultural law as a branch of law. This position, in particular, implies the occasionally stated proposals to exclude agricultural law from the language of scientific specialties of the Higher Attestation Commission, which, naturally, are actively opposed by agricultural lawyers [20]. As the literature correctly notes, such proposals are difficult to understand, given that agricultural production, like other sectors of the economy, is an absolutely necessary condition to ensure that the mankind will exist. Of course, unless they undermine the basis of their vital activity, the environment [21].

4 Conclusion

In modern realities, the scope of agricultural law is expanding. It includes new relations related to ensuring food, environmental, biological security, the development of biotechnology (including the use of genetically modified organisms), digitalisation of agriculture, adaptation of the sector to climate change, etc. There is also a need to strengthen government support to agriculture during the COVID-19 pandemic [22]. Thus, agricultural law is called upon to respond to new challenges of the time and to provide high-quality legal regulation of both traditional and newly emerging social agricultural relations.

References

1. A.I. Zaozersky, *Tsarskaya votchina XVII v.: Iz istorii khoz. i prikaznoi politiki tsarya Alekseya Mikhailovicha [Tsar's Patrimony of the 17th Century: From the History of Economic and the Order Policy of Tsar Alexei Mikhailovich]*, 41 (Sotsekgiz, Moscow, 1937)

2. B.D. Grekov (ed.), *Essays on the History of the USSR. Volume 7. Russia in the First Quarter of the 18th Century. Transformations of Peter the Great*, 314 (Publishing house of the Academy of Sciences of the USSR, Moscow, 1954)
3. Russia. *Laws and Regulations. National Food Supply Charter: [Set of Laws]. V. 13, ed. 1889. (Codification. Dept. under the State Sov., Saint Petersburg, 1889). Accessed on: July 4, 2021. [Online]. Available: <https://civil.consultant.ru/reprint/books/220/363.html#img364>*
4. A.A. Leontyev, *Krestyanskoe pravo. Sistematischeskoe izlozhenie osobennosti zakonodatelstva o krestyanakh [The Peasant Law. Regular Presentation of the Features of the Legislation on Peasants]* (Saint Petersburg, 1909)
5. Resolution of the XII All-Russian Congress of Soviets dated May 11, 1925 “Approval of the Text of the Constitution (Basic Law) of the RSFSR” (together with the “Constitution (Basic Law) of the Russian Socialist Federative Soviet Republic”), SPS Consultant Plus (1925)
6. Resolution of the Extraordinary XVII All-Russian Congress of Soviets dated January 21, 1937 “Approval of the Constitution (Basic Law) of the Russian Soviet Federative Socialist Republic” (along with the Constitution), SPS Consultant Plus (1937)
7. Constitution (Basic Law) of the RSFSR: Adopted by the RSFSR Supreme Council declaration dated April 12, 1978, SPS Consultant Plus (1978)
8. *Constitutions of Asian States. Volume 3*, 214-215 (Norma, Moscow, 2010)
9. *Constitutions of Asian states. Volume 2. Central Asia and Hindustan*, 210-213 (Norma, Moscow, 2010)
10. E.A. Vystorobets (ed.), *Environmental Provisions of Constitutions: Collection*, 51 (MIRmpOS, Centre of Intereco-law EvrAzNIIPP, Moscow-Ufa, 2012)
11. *Constitutions of Foreign States: Great Britain, France, Germany, Italy, European Union, United States of America, Japan: textbook*, 81-82 (Infotropic Media, Moscow, 2012)
12. F.O. Boadu, *Agricultural Law and Economics in Sub-Saharan Africa: Cases and Comments* (Elsevier Inc., Amsterdam, 2016)
13. L.P. Fomina, *Agrarian and Land Law*, **7**, 31-34 (2012)
14. M.I. Kozyr, *Soviet State and Law*, **6**, 43-51 (1973)
15. A. Anisimov, O. Popova, V. Ustyukova, *Problemy Ekorozwoju*, **14(2)**, 81-90 (2019)
16. S.A. Bogolyubov, *Pravovoi mekhanizm gosudarstvennogo regulirovaniya i podderzhki agropromyshlennogo kompleksa [Legal Mechanism of the State Regulation of and Support to the Agro-Industrial Complex]*, 40-74 (Norma, Moscow, 2009)
17. Agreement on Agriculture of April 15, 1994 (the document entered into force for Russia on August 22, 2012), in *Collected Legislation of the Russian Federation*, **37(Annex, Part VI)**, 2539-2565 (2012)
18. Treaty on the Eurasian Economic Union of May 29, 2014, Eurasian Economic Commission. Accessed on: June 5, 2014. [Online]. Available: <http://www.eurasiancommission.org/>
19. A.E. Petrov, *Otrasl prava [Branch of Law]* (Saratovskaya gosudarstvennaya akademiya prava, Saratov, 2004)
20. *About the Fate of Agrarian Law. Open Letter to the President of the Russian Federation D.A. Medvedev*, in *State and Law*, **5**, 36-38 (2011)
21. O.L. Dubovik, *Environmental Law*, **3**, 35-43 (2019)

22. A. Fornah, A. Miller, Ph. Hamilton, J.F. Borsuah, International Journal of Environment Agriculture and Biotechnology, **5(6)**, 1415-1429 (2020)