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Articles

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Organizational and Legal Aspects of Credit Cooperation Regulation in Ukraine

Organizacyjne i prawne aspekty regulacji spółdzielczości kredytowej w Ukrainie

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ABSTRACT

The war in Ukraine made its adjustments in the development of various spheres of human activity, including the agricultural sector of the economy. The historical experience of many developed countries shows that credit cooperation can be a tool to ensure uninterrupted access to credit and financial resources of agricultural producers. However, further development of the credit cooperative system requires the solution of a number of problematic issues of organizational and legal nature, which is the main purpose of this study. The article is research in its nature and aims to highlight the role of credit cooperation in solving rural problems, disclosing the mechanism and principles of state regulation and market self-regulation of credit cooperation, identifying organizational and legal issues that hinder the development of credit cooperation in Ukraine and ways to overcome them.

Keywords: credit cooperation; legal regulation; state regulation; market self-regulation

INTRODUCTION

Ukraine found itself in a situation that was difficult to imagine in the 21st century in the heart of Europe. As a result of the armed aggression of the Russian Federation, all spheres and branches of the economy were affected, including agriculture. As a result of the fighting, the assets and infrastructure of the agricultural food system were destroyed.[1] Agricultural machinery and other means of agricultural production were destroyed in the war zone, and agricultural lands were mutilated. Agricultural and processing enterprises, granaries and farms were affected. Human losses due to the relocation of the population from the war zone have worsened the availability of labor in the industry.

It is worth noting that Ukraine is one of the largest producers of agricultural products (wheat, corn, sunflower, sunflower oil) in the world. Many food-depend-

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[1] FAO, *Impact of the Ukraine-Russia Conflict on Global Food Security and Related Matters under the Mandate of the Food and Agriculture Organization of the United Nations*, CL 169/3, March 2020, https://www.fao.org/3/ni734en/ni734en.pdf (access: 26.10.2024); FAO, *The Importance of Ukraine and the Russian Federation for Global Agricultural Markets and the Risks Associated with the Current Conflict*, 10.6.2022, https://www.fao.org/3/cb9013en/cb9013en.pdf (access: 26.10.2024).

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ent countries (mostly the least developed countries) have experienced the negative effects of the food crisis. According to the Food and Agriculture Organization of the United Nations (FAO) forecasts, the global food security problem remains critical, and the world is still off track to achieve the Sustainable Development Goal of ending hunger by 2030.[2]

Believing in Ukraine's victory, many experts, politicians and scholars are looking for ways and proposing reconstruction, both as a country in general and in individual industries. The historical experience of many countries, including Poland, and Ukraine's own experience show that cooperation, which remains an important tool for social and economic development, can be an important force in the fight against post-war devastation in agriculture.

In 1971, credit societies from different countries of the world united in the World Council of Credit Unions (WOCCU). Their activities are based on supporting the development of the credit cooperation movement on a global scale and in relation to other countries. In Ukraine, WOCCU, with the support of the United States Agency for International Development (USAID), is successfully implementing the Agricultural Producers Crediting Project.[3]

An important component of the reconstruction of the Ukrainian countryside is the availability of credit resources for the rural population and small businesses, with this task can help the development of credit agricultural cooperation as an element of a developed financial and credit system.

Problems of development, issues of legislative regulation of credit cooperatives in the financial services market, international experience of credit cooperation and its adaptation for Ukraine are covered in studies of Ukrainian scientists, including V. Honcharenko, A. Milka,[4] F. Gorbonos, Y. Gubeni, V. Zinovchuk, O. Mohylny, L. Moldavan, A. Panteleimonenko, S. Kasyan,[5] P. Sabluk, I. Cherven, and others. The study of certain aspects of cooperative legal relations in the agricultural sector

[2] See FAO, IFAD, UNICEF, WFP, WHO, *The State of Food Security and Nutrition in the World: Financing to End Hunger, Food Insecurity and Malnutrition in All Its Forms*, 2024, https://openknowledge.fao.org/server/api/core/bitstreams/5366f75c-159d-4701-ad19-b3e1e91519e7/content (access: 26.10.2024).

[3] Ukrinform, *The Credit Union Movement, Which Unites Tens of Thousands of Ukrainians*, https://www.ukrinform.ua/rubric-economy/3336330-ukrainski-kreditni-spilki-v-ocikuvanni-zakonodavcih-zmin.html (access: 26.10.2024).

[4] V. Honcharenko, A. Milka, *Socio-Economic Efficiency Cooperative Enterprises and the National Cooperative Systems (New Theoretical and Methodological Approaches)*, "Scientific Bulletin of the Poltava University of Economics and Trade" 2016, no. 2.

[5] A. Panteleimonenko, V. Honcharenko, S. Kasyan, *Cooperative Crediting: Prospects of F.V. Raiffeisen Approaches Application in Ukrainian Agricultural Sector*, "Central Ukrainian Scientific Bulletin. Economic Sciences" 2021, vol. 6(39).

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of Ukraine's economy was carried out by domestic legal scholars: O. Antoniuk and Y. Shevchuk,[6] Kh. Hryhorieva,[7] V. Semchyk,[8] V. Fedorovych, and others.

The authors of the article have written a lot about the features and benefits of cooperation in their previous works, articles[9] and monographs.[10]

Paying tribute to the research, it should be noted that in our opinion, the key aspect of the system of measures to ensure the effective functioning of agricultural credit cooperation is the organization of state regulation of its development, which is why insufficient attention has been paid in recent scientific studies.

The study is based on the use of a number of approaches and methods used in the social sciences, among which the determinants are the methods of systems analysis, theoretical generalization, analysis, synthesis, comparison, grouping. The purpose of the article is to highlight the problematic issues of organizational and legal nature of the credit union and the directions of their solution. Given this goal, the article focuses on finding answers to the following questions: What is a credit union and what is its role in solving the problems of rural areas? What is the mechanism and principles of state regulation and market self-regulation of credit cooperatives? What problems of organizational and legal aspect hinder the development of credit cooperation in Ukraine and ways to overcome them?

RESEARCH AND RESULTS

1. The essence and role of credit cooperation

The development of cooperation and the creation and functioning of cooperatives as its organizational form are based on new organizational and legal principles. From the point of view of law, agricultural cooperation is a complex multi-sectoral structure governed by rules relating to various areas of economic legislation. The defining legal basis for the development of agricultural cooperation are the articles

[6] O. Antoniuk, Y. Shevchuk, *Problems and Prospects of Functioning of Credit Unions in Ukraine*, "Economy, Finances, Management: Topical Issues of Science and Practice" 2023, no. 1.

[7] Kh. Hryhorieva, *Legislation on Agricultural Cooperation: The Consequences of "Corporate Injection"*, "Agrarian Law" 2020, vol. 10.

[8] V. Semchyk, *Principles of Cooperate Law*, "Almanac of Law" 2012, vol. 3, http://dspace.nbuv.gov.ua/bitstream/handle/123456789/63859/06-Semchyk.pdf?sequence=1 (access: 23.10.2024).

[9] O. Sakovska, O. Shpykuliak, I. Ushkarenko, A. Chmut, *Socio-Economic Institutions for Development of Cooperation*, "Financial and Credit Activity: Problems of Theory and Practice" 2018, vol. 4(27), pp. 513–521; I. Ushkarenko, A. Soloviov, *World Economic Order: Evolution of the Cooperative Sector*, "Philosophy and Cosmology" 2020, vol. 25, pp. 139–152; I. Ushkarenko, *Osoblyvosti formuvannia kooperatyvnoho sektoru na osnovi systemnoho pidkhodu*, "Naukovyy ekonomichnyy zhurnal Intelekt XXI" 2018, vol. 4, pp. 91–95.

[10] I. Ushkarenko, *Silskohospodarska kooperatsiia v evoliutsiinomu vymiri*, Kherson 2009.

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of the Constitution of Ukraine, which give citizens the right to unite and carry out various types of joint activities. "No one may be compelled to join any association of citizens or be restricted in their rights for belonging or not belonging to political parties or public organizations".[11] That is, the Constitution enshrines the principle of voluntary association, including in cooperatives, which is one of the main principles of cooperation.

The Constitution of Ukraine does not have a direct reference to state policy on various types of cooperation, but Article 13 states that the state protects the rights of all subjects of property rights and management and the social orientation of the economy. All property rights are equal before the law. For the development of cooperation, Article 36 of the Constitution of Ukraine provides for state guarantees of independence and autonomy of this socio-economic organization and prevention of any interference in its activities.

Institutionally, credit unions are non-profit organizations that are voluntary associations of legal entities and individuals for mutual financing, saving their own financial resources and providing each other with various financial services.[12] The main purpose of credit unions as non-bank financial institutions is to provide borrowed resources and other financial services to small businesses and individuals. Credit cooperation is of particular importance for businesses that are geographically distant from banking organizations and other financial institutions, as well as those who do not have the opportunity to use bank credit resources due to various objective and subjective reasons. Hence, the target participants in the formation of agricultural credit cooperatives, as a rule, are entrepreneurs, farms, small businesses in all sectors of the economy, individuals running personal farms and other categories of the rural population.

Researchers of the problem of formation and development of agricultural credit cooperation, as one of the most important parts of the credit and financial system of agro-industrial complex of Ukraine, emphasize the need for scientific substantiation of methodological and methodological approaches corresponding to the current socio-economic situation and development in relation to cooperation. In our opinion, the key aspect of the system of measures to ensure the effective functioning of agricultural credit cooperation is the organization of state regulation of its development.

[11] Constitution of Ukraine (Official Bulletin of the Verkhovna Rada of Ukraine 1996, no. 30, Article 141). In Ukrainian available at https://zakon.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80#Text (access: 26.10.2024).

[12] V. Honcharenko, *Kredytna kooperatsiia: formy ekonomichnoi samodopomohy silskoho i miskoho naselennia u sviti ta Ukraini (teoriia, metodolohiia, praktyka)*, Kyiv 1998.

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2. Mechanism of state regulation and market self-regulation of credit cooperation

Regulation of credit cooperatives is the process of applying certain methods, mechanisms that directly or indirectly affect their results. Regulation of agricultural credit coperatives is influenced by internal and external factors. In this regard, we can identify certain ways of regulation – government regulation and market self-regulation (see Figure 1).

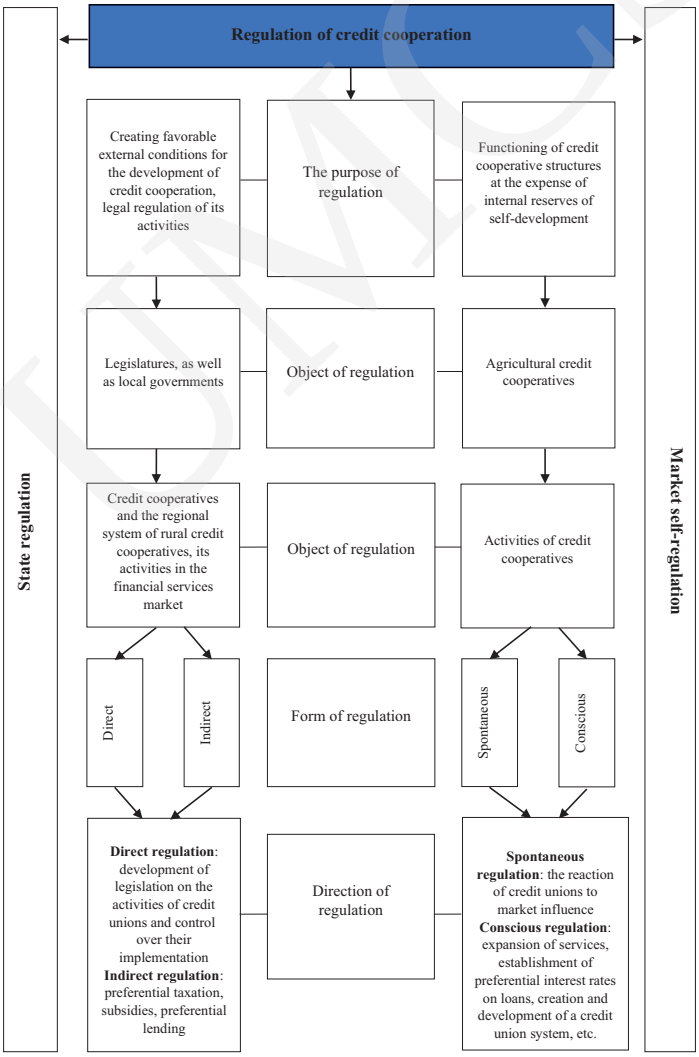


Figure 1. State regulation and market self-regulation of credit cooperatives

Source: Authors' own elaboration.

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In our opinion, the mechanism of state regulation of agricultural credit cooperation can be represented as a set of scientifically sound and interrelated legal, social, economic and organizational influences of the state, which intensify its activities and promote its active development.

In this regard, we propose a functional-procedural model for the implementation of the mechanism of state regulation of agricultural credit cooperation, which includes the following components:

1. The stage of authorization, during which the following tasks are performed:
   - development and adoption of primary legislation that formulates the basic principles, goals and objectives, areas of state support for the revival, formation and development of credit cooperation;
   - development of secondary legislation, i.e. standards, instructions, regulations;
   - development of target programs that practically implement strategic settings of legislative acts.
2. Stage of allocation of resources, during which financing of realization of target programs within the limits of the approved expenditure part of the state budget, and also budgets of regional formations is provided. These stages are an inseparable whole: the law has no practical force without detailed elaboration of mechanisms for its implementation in programs, and programs can be implemented in full only after the adoption of relevant legislation on regional budgets.

Moreover, these target programs must contain accurate guidelines for resources and their sources. In addition, it should be noted that state support will be justified only economically and socially if it directs recipients to improve the quality of their financial and economic activities, and does not generate dependent sentiment and monopoly aspirations of credit unions.

In this case, the regulatory influence of the state is based on the principles presented in Figure 2.

These principles of forming a mechanism for regulating the development and state support of credit cooperation, considered as a system of legal, organizational, economic and social support of state functions, aim to create a favorable environment for the formation and development of economic entities.

Another equally important method of regulation is self-regulation of credit cooperatives, which implies that its development is under the influence of market forces. At the same time, the credit unions themselves act as the regulatory entity. Market self-regulation of credit cooperatives can be carried out spontaneously and consciously. Spontaneous regulation is due to the very nature of the market, its dynamism, the constant variability of the situation and the situation, the action of supply and demand, the level of interest rates and prices for goods and services.

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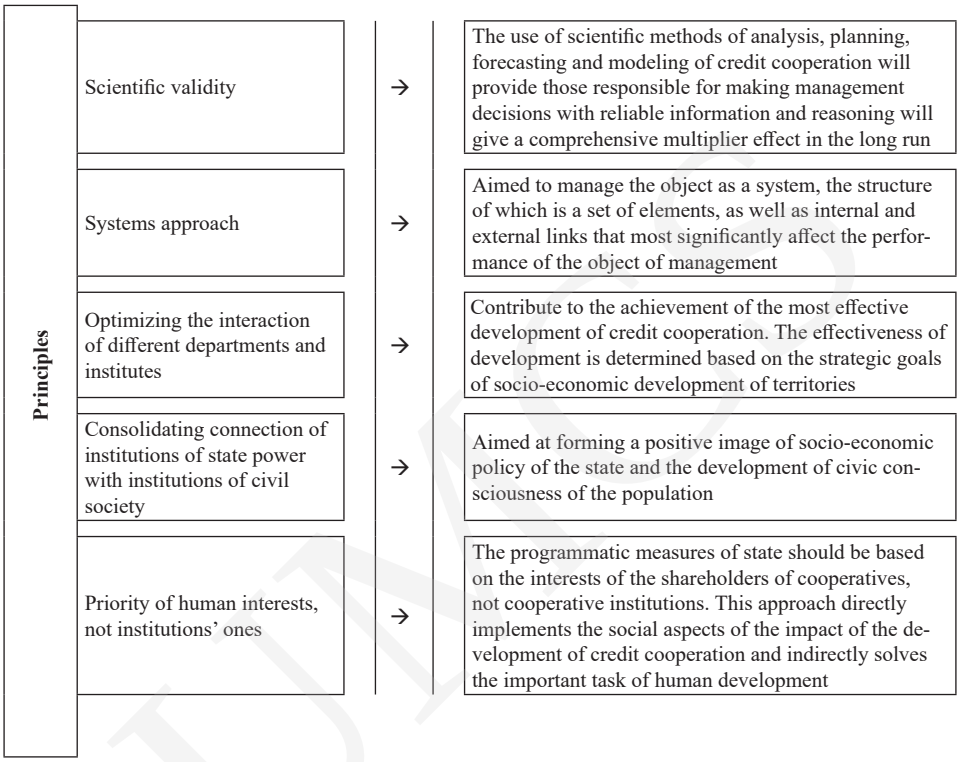


Figure 2. Principles of state regulation of credit cooperation

Source: Authors' own elaboration.

The influence of such parameters has a decisive influence on the activities of agricultural credit cooperatives. As subjects of a market economy, they are forced to respond to changing indicators that characterize the state of the market. The influence of market indicators forces credit unions to look for more effective areas of their activities to maintain competitiveness in the market.

In particular, the declining demand for their services may indicate the saturation of the market for these services, high unacceptable prices for shareholders, insufficient quality of service or their obsolescence. Accordingly, credit unions should develop and implement measures to modify these services or replace them with new, more advanced and shareholder-friendly services. Conscious regulation is characterized by conscious activity of credit unions aimed at regulating certain aspects of their activities.

The purpose of this regulation is to ensure the functioning of credit unions at the expense of their internal reserves of self-development. The most important targets of self-regulation of credit unions include the maximum possible realization of the interests of shareholders, strengthening positions in the financial services market, dissemination of ideas and benefits of credit unions. Specific directions of self-regulation directly follow from them. The target setting related to the maxi-

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mum possible realization of the interests of shareholders of credit cooperatives is determined by the interest of cooperatives in expanding or maintaining the customer base, preventing shareholders from serving in other financial institutions.

The tools that contribute to the implementation of the target installation are: expanding the range of services provided to customers; establishment of preferential interest rates on loans issued to members of the cooperative; use of part of the profit to solve social and material problems of members of the cooperative.

The above areas of credit cooperatives create a favorable image among the population, small and medium enterprises and promote the interest of the latter in working with the credit union. The next target setting of self-regulation of credit cooperatives is related to strengthening its position in the financial services market. It is implemented through the consolidation of credit unions and the creation of their hierarchical structure.

3. Organizational and legal problems of credit cooperation development in Ukraine and the ways to overcome them

The regulation of agricultural credit cooperatives can take place either under the influence of external factors or internal ones. State regulation contains almost all aspects of relations that arise in the process of credit unions. The result of national regulation is the development of legislation and a number of organizational measures and economic standards. At the same time, state regulation in relation to credit cooperatives is characterized by inconsistency of actions, non-complex approaches to the development of different types of credit cooperatives. A striking example of inconsistency and non-complexity of public policy is the procedure for legislative regulation of various forms of credit unions. It should be noted that the basis of cooperative legislation are the norms of the Laws of Ukraine: "On Consumer Cooperation",[13] "On Agricultural Cooperation",[14] "On Credit Unions",[15] "On Cooperation"[16] (see Table 1).

[13] Law of Ukraine No. 2265-XII "On Consumer Cooperation" (Official Bulletin of the Verkhovna Rada of Ukraine 1992, no. 30, Article 414). In Ukrainian available at https://zakon.rada.gov.ua/laws/show/2265-12#Text (access: 26.10.2024).

[14] Law of Ukraine No. 819-IX "On Agricultural Cooperation" (Official Bulletin of the Verkhovna Rada of Ukraine 2020, no. 92, Article 497). In Ukrainian available at https://zakon.rada.gov.ua/laws/show/819-20#n333 (access: 26.10.2024).

[15] Law of Ukraine No. 3254-IX "On Credit Unions" (Official Bulletin of the Verkhovna Rada of Ukraine 2023, no. 85–86, Article 315). In Ukrainian available at https://zakon.rada.gov.ua/laws/show/3254-20#n1363 (access: 26.10.2024).

[16] Law of Ukraine No. 1087-IV "On Cooperation" (Official Bulletin of the Verkhovna Rada of Ukraine 2004, no. 5, Article 35). In Ukrainian available at https://zakon.rada.gov.ua/laws/show/1087-15#Text (access: 26.10.2024).

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Table 1. Legislative support for the development of cooperative enterprises in Ukraine

Law of Ukraine	Date of adoption	General characteristics of the law
"On Consumer Cooperation"	10.4.1992	aims to revive and strengthen the democratic foundations of consumer cooperation, protect the interests of its members and the rural population as consumers and regulate relations with state executive bodies
"On Cooperation"	10.7.2003	determines the legal, organizational, economic and social foundations of cooperatives in Ukraine
"On Agricultural Cooperation"	21.7.2020	determines the legal, organizational, economic and social conditions of cooperatives in agriculture and their associations
"On Credit Unions"	14.7.2023	defines the organizational, legal and economic principles of the establishment and operation of credit unions, their associations, the rights and obligations of members of credit unions and their associations

Source: Authors' own elaboration.

Currently, Ukraine has the Law "On Credit Unions", which regulates the activities of credit unions of a certain type. However, this law cannot fully meet the current requirements for the legal framework for credit cooperation, as the scope of legal regulation of this law is significantly limited.

Ukraine's long-term state agricultural policy underestimates the main factors of sustainable rural development, as a spatial basis not only for agricultural production but also for the human environment, which has led to such problems in rural areas as low wages and the outflow of professionals and youth. Increasing the share of the population living below the poverty line, a sharp decline in the quality of human capital.

Therefore, the problems that need to be addressed include: low living standards of the rural population; low investment and business activity of economic entities located in rural areas; unavailability of credit resources for the development of rural small businesses and failure to solve urgent problems of the population.

Given the current situation in Ukraine, these problems have deepened many times. When developing and implementing a system of measures of state influence, it is necessary to take into account the division of powers between different branches of government and sectoral agencies and, at the same time, organize cooperation between various agencies and institutions to achieve the most effective development of credit cooperation. Regulation is one of the key factors in the development of agricultural credit cooperation.[17]

The main purpose of regulating agricultural credit cooperatives is to maintain the efficiency of the mechanism of its functioning and the formation of favorable

[17] V.V. Zinovchuk, *Mistse i rol' kooperatyviv v ahrobiznesi krain Ievropeys'koho Soiuzu*, "Ekonomika APK" 2000, vol. 2, pp. 80–86.

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internal and external conditions for the functioning of the system of agricultural credit cooperatives. Specific tasks of its regulation can be formulated as follows:

- ensuring the efficient and reliable operation of credit unions and their associations, as well as their ability to meet the needs of shareholders;
- observance by credit cooperative structures of the established laws and rules, legal protection of shareholders that guarantees full realization of their rights and powers;
- promoting the introduction and development of credit unions of new types of services, information, personnel support of credit unions and their associations in order to increase the efficiency of their operation and more fully realize the rights of shareholders;
- participation of various organizational and legal formations on a share basis in the creation of credit institutions on equal, partnership and mutually beneficial terms.

Creation and further development of the cooperative system in general in agriculture directly depends on the position of the state, state support of all forms of cooperation, including credit and should be conducted in the following directions: formation of a reliable legal framework as well as financial and economic support cooperatives. Most scholars and researchers of the development of agricultural credit cooperation agree that government influence should be based on the following principles:

1. Market participants operate on a self-financing basis through their own savings, and specific government measures to support and regulate them are additional.
2. Tools and technologies of state regulation, which are applied differently on the basis of program-target approach, should stimulate participants in the process to increase efficiency.

Credit unions as financial institutions may be subject to different legal regimes, but there should be no legal contradictions, and unclear demarcation causes various violations and increased risks in the economic activities of credit unions. The main factors in the emergence of problems in the credit and cooperative sector of the country are general economic, market and integration processes, in some cases, economic and agricultural policies pursued by the state, lack of cooperative awareness of the population and more.

In our opinion, in order to further restore the Ukrainian agricultural sector, it is necessary to harmonize cooperative legislation to regulate all types of credit cooperatives on a single universal conceptual apparatus, define common principles of credit cooperatives, impose restrictions on property management.

Otherwise, it is necessary to continue work on improving the legislation on credit cooperatives and the creation of a separate legislative act "On Agricultural Credit Cooperatives", which will determine: the procedure for establishing and op-

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erating cooperatives at both regional and national levels; the procedure for creating structural units; the procedure for carrying out inter-cooperative financial transactions; institutional regulations in the field of financial and economic regulation; forms of influence of the mechanism of state regulation through supervision and control over the activities of credit unions.

CONCLUSIONS

Based on the study, it can be argued that agricultural credit cooperation, provided it is effectively regulated, can become a driving force in supporting the Ukrainian agricultural sector. It is proved that regulation can take the form of market self-regulation and be carried out under the influence of the state. The founder of the theory of cooperative movement A.V. Chayanov said that "cooperation and the state – is water and fire, but if you make them work together, the water and fire will be a steam engine capable of doing useful work".[18] In his opinion, which remains relevant today, the system of agricultural credit should be state-cooperative, i.e. based on mutual interest and participation of the state and agricultural enterprises, with the most important component of agricultural credit should be supported by the state credit union.[19]

According to this thesis, the task of the state is to effectively regulate and support this area through a system of legal and economic measures: creating a legal framework that ensures effective credit cooperatives, allocating targeted subventions as a tool for structural adjustment, creating basic models of agricultural credit cooperatives.

In order to ensure further systemic development of agricultural credit cooperatives, a system of organizational and legal measures was substantiated and proposed, in particular: improving the legal framework in two areas – strengthening the legal status and improving state regulation of credit cooperatives, on the basis of the adoption of a separate legislative act on agricultural credit cooperation; strengthening state financial support for credit unions on a competitive basis.

For further progressive development of agricultural credit cooperatives, there is a need to study the field of information and consulting support for the development of credit cooperatives, training of professional staff for cooperatives, intensification of relevant research.

[18] As cited in I. Ushkarenko, *Silskohospodarska kooperatsiia…*, p. 9.

[19] *Ibidem*, p. 98.

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ABSTRAKT

Wojna w Ukrainie wywarła wpływ na rozwój różnych sfer działalności ludzkiej, w tym na sektor rolny gospodarki. Doświadczenie historyczne wielu krajów rozwiniętych pokazuje, że spółdzielczość kredytowa może stanowić narzędzie służące do zapewnienia niezakłóconego dostępu do kredytowych i finansowych zasobów producentów rolnych. Dalszy rozwój systemu spółdzielczości kredytowej wymaga rozwiązania szeregu kwestii o charakterze organizacyjnym i prawnym, co stanowi przedmiot niniejszego opracowania. Artykuł ma charakter badawczy. Celem jest podkreślenie roli spółdzielczości kredytowej w rozwiązywaniu problemów wsi, przedstawienie mechanizmu i zasad regulacji państwowej oraz rynkowej samoregulacji spółdzielczości kredytowej, określenie problemów organizacyjnych i prawnych utrudniających rozwój spółdzielczości kredytowej w Ukrainie oraz sposobów ich przezwyciężania.

Słowa kluczowe: spółdzielczość kredytowa; regulacja prawna; regulacja państwowa; samoregulacja rynkowa