Бахмаєр-Вінтер, Джеремі МакБрайда та Еріка Сванідзе. Директорат з питань правосуддя та людської гідності. Страсбург. 2 листопада 2011 р. DG-I(2011). С. 16. URL: http://zib.com.ua/files/Ukrainian_translation_final_1.doc

9. Стенограма комітетських слухань на тему: «Про стан підготовки до розгляду у другому читані Кримінального процесуального кодексу України (реєстраційний № 9700 від 29 лютого 2012 р.).

ИНФОРМАЦИЯ ОБ АВТОРЕ

Добруцкий Игорь Николаевич – временно исполняющий обязанности заведующего кафедрой уголовного процесса Одесского государственного университета внутренних дел;

INFORMATION ABOUT THE AUTHOR

Dobrutskiy Igor Nikolayevich – Acting Head of the Chair of Criminal Process of the Odessa State University of Internal Affairs;

igor_7721000@ukr.net

UDC 347.424

THE LEGAL IMPACT OF UKRAINIAN GRAIN EXPORT QUOTA REGIME ON EXECUTION OF FOREIGN TRADE CONTRACTS

Irina ZVYAGINA,
Senior Lecturer at the Department of Public Law of National Technical University of Ukraine «Igor Sikorsky Kyiv Polytechnic Institute»

SUMMARY

Ukrainian grain export quota regime had a significant legal impact on execution of foreign grain supply contracts in 2010 and 2011. More specifically, the paper focuses on the practical overview of a seller's obligation to obtain export licence under a foreign trade contract and Incoterms 2010. This article then examines importance of prohibition clause published by the Grain and Feed Trade Association (GAFTA). The author also introduces the reader to the new GAFTA force majeure clause, which provides for prohibition of export, and the English law cases on prohibition of export including disputes with Ukrainian parties. The choice of law clause in many foreign trade grain contracts refers to the English law and incorporates GAFTA standard contract terms. Knowledge of the GAFTA rules and English law cases becomes critical to lawyers from Ukraine and Moldova.

Key words: sale of goods, international trade, Ukrainian grain export quota regime, foreign trade contracts, Incoterms 2010, GAFTA, prohibition clause, prevention of shipment clause, force majeure event, interpretation, seller's obligation to obtain grain export licence.

ПРАВОВОЕ ВОЗДЕЙСТВИЕ УКРАИНСКОГО РЕЖИМА КВОТИРОВАНИЯ ЭКСПОРТА ЗЕРНА НА ИСПОЛНЕНИЕ ВНЕШНЕЭКОНОМИЧЕСКИХ КОНТРАКТОВ

Ирина ЗВЯГИНА,
старший преподаватель кафедры публичного права
Национального технического университета Украины
«Киевский политехнический институт имени Игоря Сикорского»

АННОТАЦИЯ

Режим квотирования экспорта зерна в Украине оказал значительное правовое воздействие на исполнение внешнеэкономических контрактов поставки зерна в 2010 и 2011 годах. В частности, в работе основное внимание уделяется практическому обзору обязанностей продавца по получению экспортной лицензии согласно внешнеэкономическому контракту и Incoterms 2010. В статье рассматривается важность положения о запрете экспорта, опубликованного Международной ассоциацией торговли зерном и кормами (GAFTA). Автор также знакомит читателя с новым положением GAFTA о форс-мажоре, которое предусматривает запрет экспорта, и английскими судебными прецедентами о запрете экспорта, в том числе спорами с участием украинских сторон. Оговорка о выборе права во многих внешнеэкономических контрактах поставки зерна ссылается на английское право и включает стандартные условия контрактов GAFTA. Знание положений GAFTA и судебных прецедентов английского права становится насущным для юристов из Украины и Молдовы.

Ключевые слова: продажа товаров, международная торговля, украинский режим квотирования экспорта зерна, внешнеэкономические контракты, Incoterms 2010, GAFTA, положение о запрете экспорта, положение о препятствовании поставке, форс-мажорное событие, толкование, обязанность продавца по получению лицензии на экспорт зерна.

REZUMAT

Regimul cotelor de export al cerealelor în Ucraina a avut un efect juridic semnificativ asupra execuției contractelor economice externe pentru aprovizionarea cu cereale în 2010 și 2011. În special, lucrarea se concentrează pe o imagine de ansamblu practică a obligației vânzătorului de a obține o licență de export, în conformitate cu contractul economică externă și Incoterms 2010. Acest articol discută despre importanța unei interdicții asupra exporturilor, publicat de Grain Internațional și Hraneste Trade Association (GAFTA). Autorul introduce, de asemenea, cititorul la noua poziție de GAFTA pe forță majoră, care prevede interzicerea exportului și precedentele judiciare britanice a interdicției de export, inclusiv dispute cu participarea partea ucraineană. Rezervarea alegerii legii în multe contracte economice externe pentru furnizarea de cereale se referă la legea engleză și include termenii standard ai contractelor GAFTA. Cunoașterea prevederilor GAFTA și a precedentelor juridice ale legislației engleze devine urgentă pentru avocații din Ucraina și Moldova.

Cuvinte cheie: vânzarea de bunuri, cote internaționale de export de cereale din Ucraina regimului de comerț, contracte de comerț exterior, Incoterms 2010, de GAFTA, poziția interdicției de export, poziția obstrucției de livrare, caz de forță majoră, interpretarea, obligația vânzătorului de a obține o licență pentru exportul de cereale.

Introduction. Grain export quota regime in Ukraine had a significant legal impact on execution of foreign grain supply contracts in 2010 and 2011. Many disputes arose between Ukrainian sellers and foreign buyers, because sellers did not obtain the export licences. Events outside the control of the parties generally cause enormous uncertainty in the trade. In substance, there were the difficulties of proving that performance was prevented by the ban. Some of the arbitration cases of the Grain and Feed Trade Association referred to Ukrainian grain export quota regime as being "a seller's nightmare" for this reason. As a result of the difficulties, GAFTA revised the prohibition clause. The current version of the GAFTA prevention of shipment clause is discussed in this article.

Purpose of the article is to review the practical issues that arise from trade restrictions under grain export quota regime in Ukraine and its consequences on execution of foreign trade contracts, explain the importance of the GAFTA prohibition and prevention of shipment provisions, clarify legal rules of their application for legal professionals from Ukraine and Moldova.

Methods and materials used in the research. This article uses method of legal analysis of seller's obligation to obtain grain export licence in the circumstances of Ukrainian export quota restrictions under foreign trade contracts and Incoterms 2010, former GAFTA prohibition clause and new prevention of shipment clause, English case law, relevant government's resolutions and orders.

In autumn 2010 it was apparent that following a disappointing harvest there would be problems with the supply of grain in Ukraine. It was also widely anticipated that some form of export restriction would be imposed. The Ukrainian Government imposed grain export restrictions in 2006 and 2007 in the same manner. However, Ukrainian grain suppliers had no detailed knowledge of when and in what form any such export restriction would be introduced. Due to the measures taken by Ukrainian customs, detention of fully or half loaded vessels in the ports started even before the quotas were officially introduced. Furthermore, both Ukrainian and international grain trading companies were challenged with the practical issues that arose from these trade restrictions.

Ukraine grain export quota restrictions came into existence under a Resolution of the Cabinet of Ministers of Ukraine dated 4 October 2010 ("Resolution No. 938") [1]. The export quota restrictions were put in place because of a poor harvest and the need to preserve sufficient grain for consumption in the home market. 19th October 2010 was a crucial point for the execution of all grain contracts in Ukraine, since the Resolution No. 938 established a new regime for export of grain and corn in particular restricting export from 19th October to 31st December 2010. The Resolution subjected export grain to obtaining export licence. The quotas and licences applied to wheat, meslin, corn, barley, rye and buckwheat.

In order to export the said products, exporters had to apply for quotas within 15 days following the official announcement on the website of the Ministry of Economic Development and Trade of Ukraine. The respective application had to contain a conclusion from the Ministry of Agricultural Policy of Ukraine confirming that the exporter possesses the quantity of grain specified in the application and is capable of exporting under the Order of the Ministry of Agricultural Policy of Ukraine of 20 October 2011 No. 661 [2].

Three governmental bodies were involved in the application of the quota restrictions. First body was the Cabinet of Ministers of Ukraine, who issued the principal resolutions. The second body was the Ministry of Agricultural Policy of Ukraine, to whom applications had to be made by the grain traders to obtain a conclusion. The third body was the Ministry of Economic Development and Trade of Ukraine, who issued the export licences. It was on receipt of an appropriate export licence that a trader was permitted to export grain.

The total quota volume was divided by the special commission proportionally to amounts listed in the conclusions of the Ministry of Agricultural Policy. The purpose of the issue of conclusions was to verify that the trader, who wished to apply for an export licence, had sufficient quantities of grain available for export. It was only when Ministry of Agricultural Policy had issued conclusions that an application could be made to the Ministry of Economic Development and Trade. There were also various announcements made by the Ministry of Economic Development and Trade setting out the periods for the issue of export licences. The Cabinet of Ministers was also quite specific about the total quantity of grain, which could be made subject to export licences. The application of these grain quota restrictions went far from smoothly. There were complaints that there was a significant bias in favour of Ukrainian exporters of grain. The large international grain traders were unable to get export quotas. Ukrainian and international trading companies were operating in extreme difficulties at the time of the export restriction quotas.

However, the respective procedures were constantly modified and re-scheduled, which affected the efficiency of the process of quota application and the process of obtaining the same. The duration of the export quota application was extended several times. In the very beginning, the Cabinet of Ministers introduced the quotas until 31 December 2010. Afterwards they were extended first to 1 April 2011 pursuant to the Resolution dated

6 December 2010 No. 1182 and then until 1 July 2011 pursuant to the Resolution dated 30 March 2011 No. 337 [3; 4].

The sellers were prevented from obtaining export licences by the quota system, the bureaucratic inefficiencies and other failures in the system for obtaining conclusions and licences so as to enable exports within the quota. Conclusions and licences could have been issued. However, inefficiencies in the licence allocation process could not be separated out from the imposition of the quota system. The second is contained within the first and is not a freestanding cause of the sellers' inability to perform. On a correct analysis, the sellers had an opportunity to apply for and receive a sufficient share of the quota and licences, were not awarded such a share, and as a result did not obtain licences. As such, there was a partial prohibition of the export, in particular a quota and licensing system. The cause of the failure to perform contracts was a failure to be awarded a share of the quota and, consequently, to obtain licences.

Ukrainian foreign trade contracts include a provision relating to export licence and export formalities. Under the standard export licence clause seller is obliged to obtain at his own risk and expenses any export licence or any other official document and to perform, where it is required, all export formalities for export of the goods. Furthermore, foreign trade contracts generally refer to Incoterms 2010. Incoterms 2010 also requires that the seller must obtain licences, authorizations and carry out all custom formalities. ICC Guide to Incoterms 2010 in relation to article A2 of FOB, CFR and CIF terms concludes that if there is an export prohibition, this risk must be borne by the seller [5, pp. 172, 184, 200]. In author's opinion, by these licence clauses sellers expressly assume the risk and costs of a failure to obtain an export licence. Ultimately, the buyers could argue that the absolute obligation to obtain export licences had been provided under the contracts.

In this context, contracts of sale usually should contain particular provisions dealing with exceptional circumstances. GAFTA standard terms help to avoid potential problems and pitfalls [6]. The international trade terms published by the Grain and Feed Trade Association (GAFTA) dominate in Europe and the Black Sea export market. GAFTA is the international association representing the trade in agricultural commodities. The international sales of agricultural products are traditionally bought and sold under the terms and conditions of GAFTA standard forms of contract. The use of standard contract terms creates parity in governing law and standard terms. It is a common feature, that Ukrainian foreign trade contracts incorporate the GAFTA standard forms of contract. Standard forms 47, 48, 49, 78 are commonly used for Ukrainian grain exports [6]. In spite of this, parties agree in contracts that specific GAFTA standard contract form should apply insofar as its terms are not in contradiction with the terms of the contract. GAFTA standard contract forms are comprehensive in their coverage of the issues relevant to a contract for the sale and purchase of commodities. The advantage of including a standard contract form is that this is a way of ensuring that all standard necessary terms are automatically incorporated into your contract. These terms are kept up to date by an international committee to ensure they reflect current trade practices for CIF, FOB, delivered and collected commercial transactions.

English law is the most popular choice of law in international sale contracts. English law is governing law under all standard international sale contract forms produced by GAFTA. The position in English law is quite clear and applies equally to all contracts. Once the shipment period has been ascertained the seller normally has the whole of that period for shipment. In the unpredictable political and legal environment of Ukraine sellers could not know and had no reasonable grounds to believe that the Government would impose any kind of export restriction or the quota regime. The fact that quotas were imposed unexpectedly was widely reported in the Ukrainian press by various trade participants including GAFTA.

All GAFTA standard contract forms have almost identical prohibition clause in the edition current at the date of the contract. At the time of the export quota restrictions latest available edition of GAFTA standard contract forms became effective on 1 September 2010 [6]. In this situation, having entered into contractual terms parties have to be bound by the terms of the current GAFTA prohibition clause. One must note at this point, that English common law doctrine of frustration may operate to cancel the contract, where there is no applicable express clause on prohibition or force majeure events.

The GAFTA prohibition clause in edition of 2010 provided as follows: "In case of prohibition of export, blockade or hostilities or in case of any executive or legislative act done by or on behalf of the government of the country of origin or of the territory where the port or ports of shipment named herein is/are situate, restricting export, whether partially or otherwise, any such restriction shall be deemed by both parties to apply to this contract and to the extent of such total or partial restriction to prevent fulfilment whether by shipment or by any other means whatsoever and to that extent this contract or any unfulfilled portion thereof shall be cancelled. Sellers shall advise Buyers without delay with the reasons therefor and, if required, Sellers must produce proof to justify the cancellation" [6].

An export ban, where no goods can be exported at all, is distinguishable from an export restriction, where some goods can be exported subject to an exporting restriction. A partial prohibition on the export of the goods was imposed by the Ukrainian authorities from 19th October 2010 and from that date export of the goods was subject to licences. Obviously, Ukraine export restrictions amounted to partial prohibition rather than to a licencing regime. As far as the execution of contracts is concerned, Ukrainian Government's export quota restrictions caused sellers' inability to perform. Had not quota been introduced, sellers would have had no issue with performance and would not have needed to obtain any export licences. Once sellers had done, what was reasonably required, their further ability to perform was entirely dependent on the authorities' decision to grant licenses. The whole basis of bringing quota restrictions was because there was a poor harvest and a need to restrict exports of grain so that sufficient grain remained available on the home market.

Many sellers failed to despatch any of the goods under the contracts and relied on the GAFTA prohibition clause to excuse performance. By contrast, under the terms and conditions of the foreign trade contracts and Incoterms 2010 sellers were under an obligation to obtain an export licence. However, in the event of a restriction of export falling within the provisions of the GAFTA prohibition clause sellers would be entitled to rely on the clause to excuse performance and bring the contracts to an end. In this instance, sellers

had to show that, having exercised their best endeavours, they were unable to fulfil their contractual obligations.

The measures introduced by the Ukrainian authorities did, in principle, fall within the provisions of the GAFTA prohibition clause. In this sense, sellers would, therefore, have been able to rely on the terms of the prohibition clause to cancel the contracts, if they could show that in spite of exercising their best endeavours to obtain licences they had been prevented from fulfilling the contracts, in the sense that it caused the inability to perform, by the measures implemented by the authorities.

All of the constituents have to be present for sellers to seek protection under GAFTA prohibition clause. First and foremost, there must be a restriction in the export of grain from Ukraine. Thus, it is paramount to construe the GAFTA prohibition clause as only able to provide relief to sellers if it can be held that Resolution No. 938 was the "qualifying event" (*"the prohibition of export restricting exports"*) to the extent that it prevented sellers fulfilling their contractual obligation under contracts to ship the goods. It is quite clear that the crucial relevant qualifying event in GAFTA prohibition clause is *"any executive or legislative act <…> restricting export <…> partially or otherwise [totally]"*. Export must be restricted either by an effective government executive or legislative act or order in the nature of a formal restriction on exports. More specifically, executive or legislative act must affect the country of origin or the load ports named in the contract. The seller has to prove (if requested to do so) that performance was actually prohibited. Notice in respect of prohibition must be given without delay. As a result of the service of the notice, the contract or any unfulfilled portion of the contract is cancelled, so that each party has to bear any losses or expenses which it has incurred.

Finally, sellers were not prevented from making shipments but restricted in doing so by the regime of having to obtain export licences under the quota system as operated by the Ukrainian authorities. Sellers could not rely upon the GAFTA prohibition clause to relieve themselves of their contractual obligations, because the quota restrictions did not set up a total prohibition on the shipment of Ukrainian grain. In this sense, export licences could be obtained under special scheme. The cause of the inability of sellers to perform the contractual obligations and to obtain, despite its endeavours, any export licences was the blatant maladministration by the Ukraine authorities of the procedures for obtaining export licences.

Clearly, the export licence clause in foreign trade contracts and the GAFTA prohibition clause should be read alongside one another. Whether one uses the word "qualification" or "overridden" in reference to the relationship between them, reasonable person should look at each of these two clauses and see how they operated one beside the other. It is, therefore, quite a simple test. The GAFTA prohibition clause relates to whether there has been a total or partial prohibition preventing sellers from performing contracts. If there was no such prohibition, then the contractual obligations of sellers have to be considered under the export licence clause. The clear finding is that sellers were under an absolute obligation to obtain the export licences and their failure to do so, despite their worthy efforts, put them under default under foreign trade contracts.

There could be circumstances of a prohibition of export in the form of a restriction in quantity or otherwise on certain terms for export, which resulted in a seller being prevented from shipping those items for export. However, this is not what happened when the Ukrainian Government issued Resolution No. 938 and the subsequent Resolutions. Thus, there was not the required nexus between these Resolutions and sellers being prevented from making shipments under contracts enabling them, in turn to obtain relief under the GAFTA prohibition clause.

The so-called "qualifying event" needs to be one which at least partially restricting the export of the Ukrainian grain. Of course there has to be a casual connection between the so-called "qualifying event" and the prevention of shipment. Here the "qualifying event" was the introduction by the Ukrainian authorities of the quota restrictions. However, the quota restrictions did not, as such, prevent sellers from fulfilling their contractual obligations. On the contrary, as we have to repeat, it was sellers' failure, despite their endeavours, to obtain the export licences. Even if a qualifying event is established, it is also necessary to show that event caused the inability to perform.

On the other hand, if contracts did not fall within the exclusions of the prohibition clause, it follows that sellers were in default of fulfilment of the contracts and as a consequence liable to buyers for damages for default in accordance with the provisions of the default clause. Apparently, the prohibition clause does not excuse a failure to perform, where the export licenses are not provided as a result of oversight, error, mishap, bureaucratic inefficiency or delay. It encompasses cases where sellers do all they can, but are nevertheless thwarted by such oversights and similar events.

The UK Commercial Court and the Court of Appeal in three very recent cases analysed the GAFTA prohibition clause and made findings on Ukrainian grain export quota regime. The author reviews relevant cases only in respect of proper analysis of the GAFTA prohibition clause and related Ukrainian Government's restrictions.

The principle authority is the judgement in *Public Company Rise v Nibulon SA* [7]. In this case the court gave guidance on the prohibition clause in GAFTA 78 (for goods by rail) in relation to the scope of a seller's obligation to obtain a grain export licence. The seller failed, despite its best endeavours, to obtain export licences, and purported to cancel the contracts under clause 17, the prohibition clause of the relevant contract. Justice Hamblen held that the nature of the obligation to obtain an export licence was absolute under export licence clause in the contract, all that meant was that the use of best endeavours would not suffice. That did not mean that export licence clause could not be qualified by other contractual terms, in accordance with the normal principles of contractual construction, whereby all terms of the contract had to be read together insofar as possible. Accordingly, the GAFTA prohibition clause qualified export licence clause in the contract, but was not overridden by it. It was clear from the wording of the GAFTA prohibition clause, that it was not limited to circumstances involving a total ban. It plainly applied to a qualifying event partially restricting export. Accordingly, the GAFTA prohibition clause did not only relieve sellers of an obligation to obtain an export licence, where there was a prohibition

amounting to a total ban. In order to establish a qualifying event under the GAFTA prohibition clause, it was sufficient to show a relevant event restricting rather than preventing export, and that if such an event were established, that it caused the relevant inability to perform [7]. So, relief from the obligation to obtain an export licence may depend on whether the export ban is total or partial and presence of causal link with contract's performance.

On 12 December 2013 the Court of Appeal heard two cases concerning the interpretation of the prohibition clause of GAFTA form 48 (CIF, C&F) in *Seagrain LLC v Glencore Grain BV* and GAFTA form 49 (FOB) in *Bunge SA v Nidera BV* respectively [8; 9]. In *Seagrain LLC v Glencore Grain BV* the appeal concerned the measures taken by Ukrainian customs before formal imposition of grain export quota regime and the proper construction of the GAFTA prohibition clause. The Seller had entered into a contract with the buyer for the export of wheat of either Ukrainian or Russian origin. The Court of Appeal concluded that the prohibition clause in the GAFTA 48 contract form could not be construed so that the reference to an *"executive act... restricting exports"* extended to every action by an official body, which had the effect of restricting exports. However, depending on the particular facts of a case, an act which implicitly restricted export might fall within the prohibition clause [8].

Another such case is *Bunge SA v Nidera BV* [9]. The Court of Appeal's decision in *Bunge SA v Nidera BV* was reversed in respect of damages and compensatory principle without reference to the point of the prohibition by the Supreme Court [10]. Unlike previous two cases, *Bunge SA v Nidera BV* is related to the Russian export ban of 2010. The Russian government temporary prohibited the export of agricultural products from Russian territory between 15 August and 31 December 2010. The Court of Appeal held that the prohibition clause required a causal link between the event in question, usually but not necessarily a total or partial prohibition of the shipment of goods, and the seller's inability to perform the contract. The words *"restricting export"* were not intended to be purely descriptive of the nature of the event in question, but were intended to describe its effect on the performance of the contract [9].

GAFTA contracts committee keeps standard contract forms under review to meet customary trade practice, as international trade develops. On 1 June 2014 a new combined prevention of shipment clause has been introduced to replace the separate prohibition, force majeure and strikes clauses. Event of force majeure now includes an explicit reference to 12 listed impediments. Prohibition of export has been defined as an event of force majeure. A New GAFTA "Prevention of Shipment" Clause in CIF and C&F contracts provides as follows: "Event of Force Majeure" means (a) prohibition of export, namely an executive or legislative act done by or on behalf of the government of the country of origin or of the territory where the port or ports named herein is/are situate, restricting export, whether partially or otherwise <...> The burden of proof lies upon Sellers and the parties shall have no liability to each other for delay and/or non-fulfilment under this clause, provided that Sellers shall have provided to Buyers, if required, satisfactory evidence justifying the delay or non-fulfilment" [6]. The same wording is used for the prevention of delivery clause in FOB forms with the difference being in terms of delivery rather than shipment. Contracts 47, 49 and 78 are also based on the CIF clause, but with slightly different wording to reflect their specific contents.

For all practical purposes prohibition on export will no longer result in the contract being automatically terminated. Instead, contract will be suspended if a force majeure event prevents the sellers from performing and adequate notice is served on the buyers. It is important to note, that the clause is still for the seller only. There is no possibility of a buyer claiming force majeure and serving a notice on a seller. The exceptions are in the GAFTA 47 and 49, where either affected party can claim relief and serve a notice on the other party.

Conclusion. The GAFTA prohibition and prevention of shipment provisions are, generally speaking, intended to excuse a seller from performance, if a sovereign act had the effect of prohibiting export. Approaching the contractual positions of the parties it could be argued that setting up quota restrictions could relieve sellers of their contractual obligations. In most cases of non-performance due to Ukrainian grain export quota regime, the sellers were accordingly held liable in damages, as they had not shown the critical causation between the partial prohibition of export and the sellers' inability to perform their contract falling within the scope of the prohibition clause. In any event, the burden is on sellers to show, that they were entitled to the protection of the prohibition clause. Sellers have to clearly demonstrate, that they made all reasonable efforts to ship the goods and a legitimate cause of the failure to perform.

References:

1. Resolution of the Cabinet of Ministers of Ukraine dated 4 October 2010 № 938 "On implementation of quota volumes for the certain types of agricultural production, export of which is subject to licensing till the 31 December 2010, and approval of the order of license issuing for export of the separate kinds of agricultural production and distribution of quotas". URL: http://zakon3.rada.gov.ua/rada/show/938-2010-%D0%BF (Last accessed: 05.03.2018).

2. Order of the Ministry of Agricultural Policy of Ukraine dated 20 October 2011 № 661 "On approval of the order for issuance of conclusions as to the availability of volumes of agriculture products declared for export and the possibility of its further export". URL: http://zakon5.rada.gov.ua/laws/show/z0966-10 (Last accessed: 05.03.2018).

3. Resolution of the Cabinet of Ministers of Ukraine dated 6 December 2010 № 1182 "On introduction of changes to the Resolution of Cabinet of Ministers of Ukraine dd. 4 October 2010 № 938 and acknowledgement of the Resolution № 1046 dd. 10 November 2010 as one which lost validity". URL: http://zakon3.rada.gov.ua/rada/show/1182-2010-%D0%BF (Last accessed: 05.03.2018).

4. Resolution dated 30 March 2011 № 337 "On introduction of changes to the Resolution of Cabinet of Ministers of Ukraine dd. 4 October 2010 № 938". URL: http://zakon3.rada.gov.ua/rada/show/337-2011-%D0%BF (Last accessed: 05.03.2018).

5. Jan Ramberg, ICC Guide to Incoterms 2010 (ICC Services Publications 2011).

6. Contracts, Grain and Feed Trade Association (GAFTA). URL: http://www.gafta.com/contracts (Last accessed: 05.03.2018).

7. Public Company Rise v Nibulon SA [2015] EWHC 684 (Comm).
8. Seagrain LLC v Glencore Grain BV [2013] EWCA Civ 1627.
9. Bunge SA v Nidera BV [2013] EWCA Civ 1628.
10. Bunge SA v Nidera BV [2015] UKSC 43.

INFORMATION ABOUT THE AUTHOR
Zvyagina Irina Nikiforovna – Senior Lecturer at the Department of Public Law of National Technical University of Ukraine «Igor Sikorsky Kyiv Polytechnic Institute»;

ИНФОРМАЦИЯ ОБ АВТОРЕ
Звягина Ирина Никифоровна – старший преподаватель кафедры публичного права Национального технического университета Украины «Киевский политехнический институт имени Игоря Сикорского»;

iryna.zviagina@gmail.com

УДК 342.9

ВНЕДРЕНИЕ В УКРАИНЕ ОБНОВЛЕННЫХ ПРИНЦИПОВ ДЕЯТЕЛЬНОСТИ ПОЛИЦИИ, ОРИЕНТИРОВАННЫХ НА ОБЩЕСТВО

Людмила ИЩЕНКО,
аспирант кафедры государственно-правовых дисциплин
Харьковского национального университета имени В.Н. Каразина

АННОТАЦИЯ

Статья посвящена освещению сущности Community Policing – партнерского взаимодействия полиции и населения как основополагающего принципа деятельности полиции. Также автором рассмотрены основные модели такого взаимодействия и главные формы реализации данной стратегии. В статье проанализирован зарубежный опыт внедрения партнерского взаимодействия полиции и общественности.

На основе анализа современного состояния отечественного законодательства сделан вывод о нынешнем состоянии и перспективах внедрения принципов полицейской деятельности, ориентированной на общество в Украине.

Ключевые слова: партнерское взаимодействие полиции и населения, координационное соглашение, социализация полиции, участковый офицер полиции.

THE INTRODUCTION IN UKRAINE OF UPDATED PRINCIPLES OF POLICE ACTIVITY, FOCUSED ON SOCIETY

Ludmila ISHCHENKO,
Postgraduate Student at the Department of State and Legal Disciplines
of Kharkov National University named after V.N. Karazin

SUMMARY

The article is devoted to highlighting the essence of Community Policing - the partnership of the police and the local community to prevent offenses. The author also considers the main models of such interaction and the main forms of implementing this strategy. The article analyzes the foreign experience of implementing the partnership between the police and the public.

Based on the analysis of the current state of the domestic legislation and relevant state programs, a conclusion is drawn on the prospects for introducing principles of policing activities that are socially oriented in Ukraine.

Key words: police and public partnership, coordination agreement, police socialization, Scandinavian model of public order protection, district police officer.

REZUMAT

Articolul este dedicat evidențierii esenței politicii comunitare - parteneriatul dintre poliție și local, ca principiu fundamental al poliției. Autorul consideră, de asemenea, principalele modele de astfel de interacțiuni și principalele forme de implementare a acestei strategii. Articolul analizează experiența străină de implementare a parteneriatului dintre poliție și public.

Pe baza analizei stadiului actual al legislației interne, sa ajuns la o concluzie privind starea actuală și perspectivele de introducere a principiilor activităților de poliție care sunt orientate social în Ucraina.

Cuvinte cheie: parteneriat de poliție și comunitate, acord de coordonare, socializare polițienească, ofițer de poliție raional.

Постановка проблемы. Сегодня мы можем наблюдать глубокие и коренные изменения, которые происходят в отношениях между населением и государственными учреждениями. Происходит становление правового государства и гражданского общества в Украине. Перед украинским обществом возникают все новые вызовы и проблемы как внешнего, так и внутреннего характера, поэтому в такое сложное время главная задача государства – обеспечить вы-